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The **NORTH CAROLINA REGISTER**

IN THIS ISSUE

EXECUTIVE ORDERS

ADMINISTRATIVE ORDERS

PROPOSED RULES

Administration
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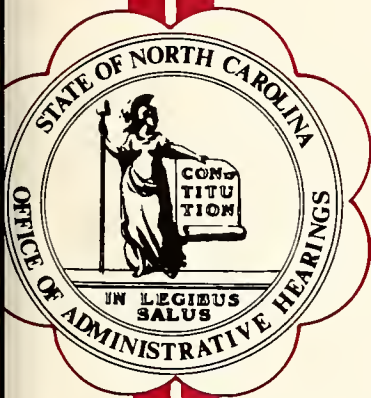
FINAL RULES

Corrections

LIST OF RULES AFFECTED

ISSUE DATE: MARCH 16, 1987

Volume 1 • Issue 12 • Pages 807-847



INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

NORTH CAROLINA REGISTER

The *North Carolina Register* is published monthly and contains information relating to agency, executive, legislative and judicial actions required by or affecting Chapter 150B of the General Statutes. All proposed administrative rules and amendments filed under Chapter 150B must be published in the Register. The Register will typically comprise approximately one hundred pages per issue of legal text.

State law requires that a copy of each issue be provided free of charge to each county in the state and to various state officials and institutions. The *North Carolina Register* is available by yearly subscription at a cost of ninety-five dollars (\$95.00) for 12 issues.

Requests for subscription to the *North Carolina Register* should be directed to the Office of Administrative Hearings, P. O. Drawer 11666, Raleigh, N. C. 27604, Attn: Subscriptions.

ADOPTION, AMENDMENT, AND REPEAL OF RULES

An agency intending to adopt, amend, or repeal a rule must first publish notice of the proposed action in the *North Carolina Register*. The notice must include a reference to the Statutory Authority for the action; the time and place of the public hearing and a statement of how public comments may be submitted to the agency either at the hearing or otherwise; the text of the proposed rule or amendment; and the proposed effective date.

The Director of the Office of Administrative Hearings has authority to publish a summary, rather than the full text, of any **amendment** which is considered to be too lengthy. In such case, the full text of the rule containing the proposed amendment will be available for public inspection at the Rules Division of the Office of Administrative Hearings and at the office of the promulgating agency.

Following publication of the proposal in the *North Carolina Register*, at least 60 days must elapse before the agency may take action on the proposed adoption, amendment or repeal.

When final action is taken, the promulgating agency must file any adopted or amended rule with the Office of Administrative Hearings. If it differs substantially from the proposed form published as part of the public notice, the adopted version will again be published in the *North Carolina Register*.

A rule, or amended rule, cannot become effective earlier than the first day of the second calendar month after the adoption is filed.

Proposed action on rules may be withdrawn by the promulgating agency at any time before final action is taken by the agency.

TEMPORARY RULES

Under certain conditions of an emergency nature, some agencies may issue temporary rules. A temporary rule becomes effective when adopted and remains in effect for the period specified in the rule or 120 days, whichever is less. An agency adopting a temporary rule must begin normal rule-making procedures on the permanent rule at the same time the temporary rule is adopted.

NORTH CAROLINA ADMINISTRATIVE CODE

The North Carolina Administrative Code (NCAC) is a compilation and index of the administrative rules of 25 state agencies and 38 occupational licensing boards. The NCAC comprises approximately 15,000 letter size, single spaced pages of material of which approximately 35% is changed annually. Compilation and publication of the NCAC is mandated by G.S. 150B-63(b).

The Code is divided into Titles and Chapters. Each state agency is assigned a separate title which is further broken down by chapters. Title 21 is designated for occupational licensing boards.

The NCAC is available in two formats.

- (1) In looseleaf pages at a minimum cost of two dollars and 50 cents (\$2.50) for 10 pages or less, plus fifteen cents (\$0.15) per each additional page.
- (2) On microfiche. The microfiche edition is revised semi-annually (March and October) and can be purchased for forty dollars (\$40.00) per edition. Due to the volume of the Code, the complete copy can only be purchased on microfiche. The NCAC on microfiche is updated monthly by publication of a "List of Rules Affected" which sets out rules filed the previous month, the action taken, and the effective date of the change. This list is published in the *North Carolina Register*.

Requests for looseleaf pages of rules or the NCAC on microfiche should be directed to the Office of Administrative Hearings.

NOTE

The foregoing is a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Articles 2 and 5 of Chapter 150B of the General Statutes by examined carefully.

CITATION TO THE NORTH CAROLINA REGISTER

The *North Carolina Register* is cited by volume, issue, page number and date. 1:1 NCR 101-201, April 1, 1986 refers to Volume 1, Issue 1, pages 101 through 201 of the *North Carolina Register* issued on April 1, 1986.

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NORTH CAROLINA REGISTER



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NORTH CAROLINA REGISTER
Publication Deadlines and Schedules
(April 1986 - March 1987)

Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing	Earliest Date for Adoption by Agency	* Earliest Effective Date
12/15/86	11/25/86	12/02/86	01/14/87	02/13/87	05/01/87
01/15/87	12/29/86	01/05/87	02/14/87	03/16/87	06/01/87
02/16/87	01/26/87	02/02/87	03/18/87	04/17/87	07/01/87
03/16/87	02/23/87	03/02/87	04/15/87	05/15/87	08/01/87
04/15/87	03/26/87	04/02/87	05/15/87	06/14/87	09/01/87
05/15/87	04/27/87	05/04/87	06/14/87	07/14/87	10/01/87
06/15/87	05/26/87	06/02/87	07/15/87	08/14/87	11/01/87
07/15/87	06/25/87	07/02/87	08/14/87	09/13/87	12/01/87
08/14/87	07/27/87	08/03/87	09/13/87	10/13/87	01/01/88
09/15/87	08/26/87	09/02/87	10/15/87	11/14/87	02/01/88
10/15/87	09/25/87	10/02/87	11/14/87	12/14/87	03/01/88
11/16/87	10/27/87	11/03/87	12/16/87	01/15/88	04/01/88
12/15/87	11/23/87	12/02/87	01/14/88	02/13/88	05/01/88
01/15/88	12/28/87	01/04/88	02/14/88	03/15/88	06/01/88
02/15/88	01/26/88	02/02/88	03/16/88	04/15/88	07/01/88
03/15/88	02/24/88	03/02/88	04/14/88	05/14/88	08/01/88

* The "Earliest Effective Date" was considering the agency files the rules with The Administrative Rules Review Commission the same calendar month as adoption by agency and ARRC approves the rules at the next calendar month meeting.

EXECUTIVE ORDERS

EXECUTIVE ORDER NUMBER 32

GOVERNOR'S LITERACY COUNCIL

By authority vested in me as Governor by the Constitution and laws of North Carolina, it is ORDERED:

Section 1. ESTABLISHMENT

There is hereby established in the Office of the Governor, the Governor's Literacy Council. The Council shall be composed of not less than eleven (11) members appointed by the Governor to serve at the pleasure of the Governor. The Governor shall designate one (1) of the members as chairman. The members appointed by the Governor shall include the following:

The President of the Community College System,

The Superintendent of Public Instruction,

The Secretary of the Department of Cultural Resources,

A Representative from the Employment Security Commission,

A Representative from the North Carolina Literacy Council,

A Representative from the North Carolina University System,

A Representative from business and industry in North Carolina,

The President of the North Carolina Association of Independent Colleges and Universities,

Two Representatives from the Governor's Office, and

A Cabinet Officer from the Governor's Cabinet.

Section 2. FUNCTIONS

(a) The Council shall meet regularly at the call of the chairman and will hold special meetings at any time at the call of the chairman or the Governor. The Council is authorized to conduct public hearings.

(b) The Council shall have the following duties:

(1) To serve as a forum for constituencies concerned with adult literacy.

(2) To facilitate coordination of programs and linkages between agencies, organizations and groups concerned with literacy.

(3) To identify issues, problems, and solutions for increasing literacy in North Carolina.

(4) To serve as an advisory group to the Governor on problems and recommendations for eliminating illiteracy in North Carolina.

(5) To issue a report on or proposed solutions to state of literacy in North Carolina.

(6) Other duties as assigned by the Governor.

Section 3. ADMINISTRATION

(a) Support for the Council shall be provided by such departments and agencies as the Governor from time to time shall direct.

(b) Members of the Council shall be reimbursed for necessary travel and subsistence expenses authorized by General Statute 138-5. Reimbursements of such expenses shall be paid by such departments and agencies as the Governor from time to time shall direct.

Section 4. IMPLEMENTATION AND DURATION

(a) This order shall be effective immediately.

(b) The Council shall dissolve at the pleasure of the Governor but no later than February 1, 1989.

This order is effective this 16th day of February, 1987.

EXECUTIVE ORDER NUMBER 33

AMENDING EXECUTIVE ORDER NUMBER ONE (1)

EXTENDING EXPIRATION DATE OF EXECUTIVE ORDER NUMBER 1 TO JANUARY 29, 1989

Executive Order Number 1 issued on January 31, 1985, and amended by Executive Order Number 30 expires on January 31, 1987. It has been made to appear that this Executive Order should continue in effect.

NOW, THEREFORE, IT IS

ORDERED that Executive Order
Number 1 dated January 31, 1985,
is extended for two years up to
and through January 29, 1989.

This action is effective
this the 30th day of January,
1987.

ADMINISTRATIVE ORDER

STATE OF NORTH CAROLINA

Office of Administrative Hearings

TO ALL TO WHOM THESE PRESENTS SHALL COME - GREETING:

I, Robert A. Melott, Reposing special trust and confidence in the integrity and knowledge of DOLORES DEL GAUDIO NESNOW, now, by virtue of the authority vested in me by law I do hereby appoint her Administrative Law Judge and confer upon her all of the rights, privileges and powers useful and necessary to the just and proper discharge of her duties.

In Witness Whereof, I have hereunto signed my name and affixed the Seal of the Office of Administrative Hearings of the State of North Carolina, at Raleigh, North Carolina, this the 1st day of March 1987.

s/Robert A. Melott
Chief Administrative Law Judge
Director

PROPOSED RULES

TITLE 1 - DEPARTMENT OF ADMINISTRATION

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Administration intends to amend regulation cited as 1 NCAC 22 .0201.

The proposed effective date of this action is July 1, 1987.

Statutory Authority: S. L. 1977, Ch. 677.

The public hearing will be conducted at 10:00 a.m. on April 16, 1987 at Ground Floor Hearing Room, Archdale Building, 512 N. Salisbury St., Raleigh, NC 27611.

Comment Procedures: All persons interested in this matter are invited to attend. Comments, statements, data, and other information may be submitted in writing prior to, during, or within thirty (30) days after the hearing or may be presented orally at the hearing. Oral statements may be limited to five (5) minutes at the discretion of the hearing officer. For further information or the submission of written comments, contact Patty Johnson, DNRCD, P. O. Box 27687, Raleigh, NC 27611 (919) 733-6376.

CHAPTER 22 - CLEAN WATER BOND ACT

SECTION .0200 - GRANTS

.0201 GENERAL

Subject to the provisions governing annual allocation of funds set forth in the act, grants may be made from the pollution control account by the Environmental Management Commission and from the water supply systems account by the Division of Health Services to assist units of government in financing the cost of construction of new or the improvement or expansion of existing wastewater treatment works, wastewater collection systems and water supply systems during the period July 1, 1977, through June 30, 1982. If the funds allocated for any of these fiscal years are insufficient, upon recommendation of the Environmental Management Commission or the Division of Health Services and the

Department of Administration, additional funds may be made available to the Environmental Management Commission or the Division of Health Services from the contingency account of the Clean Water Fund if the Advisory Budget Commission determines that there are sufficiently compelling reasons for providing funds for grants, or any portion thereof, from the contingency account. Grant payments and New grants from any uncommitted funds which exist as of June 30, 1982, may be made through June 30, 1987.

TITLE 2 - AGRICULTURE

Notice is hereby given in accordance with G.S. 150B-12 that the N.C. Pesticide Board intends to amend and repeal regulations cited as 2 NCAC 9L .0501, .0517; 27A .0001-.0003; 27B .0001-.0002; 27C .0001-.0002; 28A .0001-.0003; 28B .0001-.0002; 28C .0001-.0002.

The proposed effective date of this action is July 1, 1987.

Statutory Authority: G.S. 143-434 to 143-470.

The public hearing will be conducted at 1:00 p.m. on April 24, 1987 at Board Room, Agriculture Building, One Edenton Street, Raleigh, NC 27611.

Comment Procedures: Data, opinion, and argument concerning these rules must be submitted to the North Carolina Pesticide Board by or on April 24, 1987. Written comments may be mailed directly to Mr. John L. Smith, Secretary, North Carolina Pesticide Board, P.O. Box 27647, Raleigh, NC 27611.

CHAPTER 9 - FOOD AND DRUG PROTECTION DIVISION

SUBCHAPTER 9L - PESTICIDE SECTION

SECTION .0500 - PESTICIDE LICENSES

.0501 CRITERIA FOR PESTICIDE DEALER (REPEALED)

.0517 PASSING GRADES
Passing grade for the examinations will be grade 70. and can be changed at the discretion of the board.

CHAPTER 27 - PESTICIDE BOARD

SUBCHAPTER 27A - ORGANIZATION

- .0001 FUNCTION OF BOARD (REPEALED)
- .0002 POWER AND DUTIES OF COMMISSIONER OF AGRICULTURE (REPEALED)
- .0003 BOARD MEMBERS (REPEALED)

SUBCHAPTER 27B - MEETINGS

- .0001 MEETING DATE (REPEALED)
- .0002 PLACE OF MEETING (REPEALED)

SUBCHAPTER 27C - REGULATION ADOPTION

- .0001 AUTHORITY OF BOARD (REPEALED)
- .0002 CITATION OF RULES AND REGULATIONS (REPEALED)

CHAPTER 28 - PESTICIDE ADVISORY COMMITTEE

SUBCHAPTER 28A - ORGANIZATION

- .0001 BOARD MEMBERS (REPEALED)
- .0002 TERMS OF BOARD MEMBERS (REPEALED)
- .0003 PER DIEM OF MEMBERS (REPEALED)

SUBCHAPTER 28B - FUNCTIONS

- .0001 ADVISORY CAPACITY (REPEALED)
- .0002 ADVISORY CAPACITY: SCOPE (REPEALED)

SUBCHAPTER 28C - MEETINGS

- .0001 SCHEDULING OF MEETINGS (REPEALED)
- .0002 LOCATION OF MEETINGS (REPEALED)

TITLE 10 - DEPARTMENT OF HUMAN RESOURCES

Notice is hereby given in accordance with G.S. 150B-12 that the Division of Health Services intends to adopt and amend regulations cited as 10 NCAC 4C .0302; 8B .0311 and .0610; 8G .0705; 10D .0903 and .0906; 10F .0001; .0029-.0034; .0041 and .0042.

The proposed effective date of this action is August 1, 1987.

Statutory Authority: G.S. 130A-5(3); 130A-124; 130A-127; 130A-177; 130A-205; 130A-294(c);

130A-315; 130A-317; 143B-193; and P. L. 93-523.

The public hearing will be conducted at 1:30 p.m. on April 15, 1987 at Highway Building, Auditorium (First Floor), 1 South Wilmington Street, Raleigh, North Carolina.

Comment Procedures: Any person may request information or copies of the proposed rules by writing or calling John P. Barkley, Agency Legal Specialist, Division of Health Services, P. O. Box 2091, Raleigh, North Carolina 27602-2091, (919) 733-3131. Written comments on these subjects may be sent to Mr. Barkley at the above address. Written and oral (for no more than ten minutes) comments on these subjects may be presented at the hearing. Notice should be given to Mr. Barkley at least three days prior to the hearing if you desire to speak.

CHAPTER 4 - HEALTH SERVICES: OFFICE OF THE DIRECTOR

SUBCHAPTER 4C - PAYMENT PROGRAMS

SECTION .0300 - ELIGIBILITY PROCEDURES

.0302 AUTHORIZATIONS AND CLAIMS PROCESSING TIME FRAMES

The following time frames shall apply to all payment programs:

- (1) Requests for authorization must be received by the division within 30 days after initiation of services.
- (2) A completed request for authorization shall include a completed authorization form, and a completed eligibility form, and any documentation required by this Subchapter.
- (3) The division shall approve or deny an authorization request, or request additional information within 45 days after receipt of the authorization request.
- (4) If additional information is requested this information must be received by the division within 30 days of the request or the authorization request will be automatically denied.
- (5) The division shall approve or deny an authorization request within 45 days after receipt of the necessary information.
- (6) A claim for payment must be submitted to the division within 180 days after

completion of the authorized service, or within 30 days after the date of authorization approval by the division, whichever is later. Except for pharmacy outpatient service claims, a claim for payment shall not be accepted unless it indicates that no other third party payors are involved, or that all other third party payors have made payment, denied payment, or have been billed but have not provided a definitive response within 80 days after completion of the authorized services. A pharmacy outpatient service claim shall include an accounting of third payments, denials of payment, and the status of pending third party claims.

(7) Failure to provide a claim for payment in accordance with the provisions of Paragraph (6) of this Rule shall result in cancellation of the approval of the authorization request.

(8) The division shall make payment to the provider within 45 days after receipt of a valid claim for payment for authorized services.

(9) The director of each payment program may make exceptions to the provisions of Paragraphs (1) and (4) of this Rule when justifiable cause is shown. However, no exception shall be made to approve an authorization request received after 180 days from the date service was initiated.

(10) Requests for authorization and claims for payment for inpatient, outpatient, physician, dental, and pharmacy services shall be submitted on forms provided by the division at its principal address.

(1) Requests for authorization must be received by the division within 90 days after the date of service.

(2) The division shall respond to an authorization request within 45 days after receipt.

(3) If additional information is requested, this information must be received within 90 days after the date of service or within 30 days after the date of the division's request, whichever is later.

(4) The division shall approve or deny an authorization request within 45 days after

receipt of the necessary information.

(5) All claims for payment must be received by the division within 180 days after the date of service or within 45 days after the date of authorization approval, whichever is later. Corrections to claims and requests for payment adjustment must be received by the division within one year after the date of service or within 45 days after the date the claim is paid or returned for additional information, whichever is later.

(6) A claim must show payments by other third party payors or it must show that all other payors have denied payment or that there are no other payors. Once another payor has been billed, if no response has been received within 80 days after the date of service, the provider may bill the division, but the claim must indicate that the other payor has been billed and no response has been received. Providers of pharmacy outpatient services are not required to wait 80 days before billing the division but are required to refund the division if other third party payments are received.

(7) The division shall make payment to the provider within 45 days after receipt of a completed claim.

(8) Requests for authorization and claims for payment shall be submitted on forms approved by the division.

CHAPTER 8 - HEALTH: PERSONAL HEALTH

SUBCHAPTER 8B - MATERIAL AND CHILD HEALTH

SECTION .0300 - LOCAL HEALTH DEPARTMENT PROGRAM AND FUNDING

.0311 CLIENT ELIGIBILITY
To be eligible for maternal and child health ambulatory services provided by MCH program funds, clients must meet the eligibility requirements established by the local provider. Financial eligibility requirements, may not be more restrictive than those established by the General Assembly for non-medicaid and non-kidney medical programs the official poverty line issued

annually by the United States Department of Health and Human Services.

SECTION .0600 - PEDIATRIC
PRIMARY CARE PROGRAM

.0610 CLIENT ELIGIBILITY
To be eligible for pediatric primary care services provided by pediatric primary care program funds, clients must meet the eligibility criteria established by the local provider. Financial eligibility requirements may not be more restrictive than those established by the General Assembly for non-medicaid and non-kidney medical programs the official poverty line issued annually by the United States Department of Health and Human Services.

SUBCHAPTER 8G - PERINATAL CARE

SECTION .0700 - HIGH RISK
MATERNITY CLINIC FUNDS AND
HIGH RISK MATERNITY CLINIC
REIMBURSEMENT FUNDS

- .0705 CLIENT ELIGIBILITY
(b) To be eligible for services provided by a perinatal program high risk maternity clinic, clients must meet the following:
- (1) financial eligibility requirements, if any, established by the clinic. these requirements shall not be more restrictive than those in 40 NCAG 40 These financial eligibility requirements may not be more restrictive than the official poverty line issued annually by the United States Department of Health and Human Services; and
 - (2) medical eligibility requirements established by the clinic.

SUBCHAPTER 10D - WATER
SUPPLIES

SECTION .0900 - SUBMISSION
OF PLANS, SPECIFICATIONS:
AND REPORTS

.0903 SUBMISSIONS REQUIRED
BY ENGINEER AND WATER
SUPPLIER
Detailed plans and specifications for community water system facilities systems shall be prepared by a professional engineer licensed to practice in the State of North Carolina. The plans shall bear an imprint of the registration seal of the

engineer. Upon completion of the construction or modification of the community water system the water supplier shall submit a statement signed by a registered professional engineer and affixed with his professional engineering seal stating that construction was completed in accordance with approved plans and specifications and revised only in accordance with the provisions of .0906 of this Section. The statement shall be based upon periodic observations during and upon completion of construction by the engineer or a representative of the engineer's office who is under the engineer's supervision to insure the truth of statement.

.0906 CHANGES IN PLANS OR
SPECIFICATIONS AFTER
APPROVAL

No deviation Any deviations from the approved plan or and specifications shall be made unless amended plans showing such proposed changes shall have been submitted to and approved by the Department of Human Resources: affecting capacity, hydraulic conditions, operating units, the functioning of water treatment processes, the quality of water to be delivered, or any provisos stipulated in the department's original and subsequent letters of approval must be approved by the department before any deviations are made. Revised plans and specifications shall be submitted to the department in time to permit the review and approval of such plans or specifications by the department before any construction work affected by such deviations is begun. Failure to comply with this requirement shall invalidate any previous approval of plans and specifications.

SUBCHAPTER 10F - HAZARDOUS WASTE
MANAGEMENT

.0001 GENERAL
(c) 45 Fed Reg. 33,073 (1980) [to be codified in 40 CFR 260.1 to 260.3 (Subpart A)], "General," has been adopted by reference as amended by 51 Fed Reg. 28,682 and 40,636 (1986).

.0029 IDENTIFICATION AND
LISTING OF HAZARDOUS
WASTES - PART 261

(a) The general provisions contained in 45 Fed. Reg. 33,119 to 33,121 (1980) [to be codified in 40 CFR 261.1 to 261.6

(Subpart A)] have been adopted by reference as amended by 45 Fed. Reg. 72,028, 72,037, 76,620, 76,623, 76,624, and 78,531 (1980); 46 Fed. Reg. 56,588, 56,589, 47,429, 44,972, 44,973 (1981); 48 Fed. Reg. 2,532, 14,293, 14,294, and 30,115 (1983); 49 Fed. Reg. 23,287, and 44,980 (1984); and 50 Fed. Reg. 663, 664, 665, 1,999, 14,219, 28,743, 28,744, 49,202, 49,203, and 33,542, (1985); and 51 Fed. Reg. 10,174, 10,175, 25,472, and 28,682, 40,636, and 40,637 (1986).

(b) The provisions for "Residues of Hazardous Waste in Empty Containers" contained in 45 Fed. Reg. 78,529 (1980) [to be codified in 40 CFR 261.7 (Subpart A)] has been adopted by reference as amended by 47 Fed. Reg. 36,097 (1982); 48 Fed. Reg. 14,294 (1983); and 50 Fed. Reg. 1,999 (1985); and 51 Fed. Reg. 40,637 (1986).

.0030 STANDARDS FOR HAZARDOUS WASTE GENERATORS -
PART 262

(a) The general provisions contained in 45 Fed. Reg. 33,142 and 33,143 (1980) [to be codified in 40 CFR 262.10 to 262.12 (Subpart A)] have been adopted by reference as amended by 45 Fed. Reg. 86,970 (1980) and 47 Fed. Reg. 1,251 (1982); and 48 Fed. Reg. 14,294 (1983); and 51 Fed. Reg. 40,637 (1986).

(d) The provisions for "Recordkeeping and Reporting" contained in 45 Fed. Reg. 33,144 (1980) [to be codified as 40 CFR 262.40 to 262.44 (Subpart D)], have been adopted by reference as amended by 48 Fed. Reg. 3,981, 3,982, 14,294 (1983); 50 Fed. Reg. 28,746 (1985); and 51 Fed. Reg. 10,176 and 28,682 (1986), except that 40 CFR 262.40 is not adopted by reference.

(1) The following shall be substituted for the provisions of 40 CFR 262.40 which were not adopted by reference:

"262.40 Recordkeeping.

(a) A generator must keep a copy of each manifest signed in accordance with Section 262.23(a) for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.

(b) A generator must keep a copy of each Biennial Report and Exception Report for a period of at least three years from the due date of the report.

(c) A generator must keep records of any test results, waste analyses, or other determinations made in accordance with Section 262.11 for at least three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal.

(d) The periods or retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the administrator.

(e) A generator must keep records and results of inspections as required by Section 262.34 for at least three years from the date of the inspection."

.0031 STANDARDS FOR HAZARDOUS WASTE TRANSPORTERS -
PART 263

(b) The provisions for transfer facility requirements contained in 45 Fed. Reg. 86,968 (1980) [to be codified in 40 CFR 263.12 (Subpart A)] have been adopted by reference as amended by 48 Fed. Reg. 14,294 (1983) and 51 Fed. Reg. 40,637 (1986).

.0032 STANDARDS FOR OWNERS/ OPERATORS OF HWMF'S -
PART 264

(c) "General Facility Standards" contained in 45 Fed. Reg. 33,222 to 33,224 (1980) [to be codified in 40 CFR 264.10 to 264.18 (Subpart B)] have been adopted by reference as amended by 46 Fed. Reg. 2,848, 2,849, 2,874, and 7,678 (1981); 47 Fed. Reg. 32,349 and 32,350 (1982); 48 Fed. Reg. 14,294 (1983); 50 Fed. Reg. 18,374 and 28,746 (1985); and 51 Fed. Reg. 25,472 and 40,637 (1986).

(f) The provisions for "Manifest System, Recordkeeping, and Reporting" and accompanying appendices contained in 45 Fed. Reg. 33,226 to 33,232 (1980) [to be codified in 40 CFR 264.70 to 264.78 (Subpart E)] have been adopted by reference as amended by 45 Fed. Reg. 86,970 and 86,974 (1980); 46 Fed. Reg. 2,849 and 7,678 (1981); 47 Fed. Reg. 32,350 (1982); 48 Fed. Reg. 3,982 (1983); 50 Fed. Reg.

18,374 and 28,746 (1985); and 51 Fed. Reg. 25,472 and 40,637 (1986).

.0033 INTERIM STATUS STANDARDS FOR HWMF's - PART 265

(b) "General Facility Standards" contained in 45 Fed. Reg. 33,234 to 33,236 (1980) [to be codified in 40 CFR 265.10 to 265.18 (Subpart B)] have been adopted by reference as amended by 48 Fed. Reg. 14,295 (1983); 50 Fed. Reg. 18,374 and 28,749 (1985); and 51 Fed. Reg. 25,478 and 25,479, and 40,637 (1986).

(e) The provisions for "Manifest System Recordkeeping, and Reporting" contained in 45 Fed. Reg. 33,238 and 33,239 (1980) [to be codified in 40 CFR 265.70 to 265.77 (Subpart E)] have been adopted by reference as amended by 45 Fed. Reg. 86,970, 86,974 (1980); 46 Fed. Reg. 7,680 (1981); 48 Fed. Reg. 3,982 (1983); 50 Fed. Reg. 18,374 (1985); and 51 Fed. Reg. 25,479, 40,637, and 40,638 (1986).

(i) The provisions for "Use and Management of Containers" contained in 45 Fed. Reg. 33,244 (1980) [to be codified in 40 CFR 265.170 to 265.177 (Subpart I)] have been adopted by reference as amended by 45 Fed. Reg. 78,529 (1980), except that 40 CFR 265.174 is not adopted by reference.

(1) The following shall be substituted for the provisions of 40 CFR 265.174 which were not adopted by reference:

"265.174 Inspections.

The owner or operator must inspect areas where containers are stored at least weekly, looking for leaks and for deterioration caused by corrosion or other factors. A log of the weekly inspections must be kept for at least three years from the date of the inspection." [Comment: See Section 265.171 for remedial action required if deterioration or leaks are detected.]

(j) The provisions for "Tanks" contained in 45 Fed. Reg. 33,244 and 33,245 (1980) [to be codified in 40 CFR 265.190 to 265.201 (Subpart J)] have been adopted by reference as amended by 46 Fed. Reg. 2,896 and 35,249 (1981); and 51 Fed. Reg. 25,478 to 25,485 and 25,479 to 25,481 (1986), except that 40 CFR 265.194 is not adopted by reference.

(1) The following shall be

substituted for the provisions of 40 CFR 265.194 which were not adopted by reference.

"265.194 Inspections.

(a) the owner or operator of a tank must inspect, where present:

(1) discharge control equipment (e.g., waste feed cut-off systems, by-pass systems, and drainage systems), at least once each operating day, to ensure that it is in good working order;

(2) data gathered from monitoring equipment (e.g., pressure and temperature gauges), at least once each operating day, to ensure that the tank is being operated according to its design;

(3) the level of waste in the tank, at least once each operating day, to ensure compliance with Section 265.192(c);

(4) the construction materials of the tank, at least weekly, to detect corrosion or leaking of fixtures or seams; and

(5) the construction materials of, and the area immediately surrounding discharge confinement structures (e.g., dikes), at least weekly, to detect erosion or obvious signs of leakage (e.g., wet spots or dead vegetation).

(b) a log of the weekly inspections must be kept for at least three years from the date of the inspection."

[Comment: As required by Section 265.15(c), the owner or operator must remedy any deterioration or malfunction he finds.]

.0034 INTERIM STATUS STANDARDS FOR PERMITTING - PART 270

(b) The following provisions for additional permitting requirements contained in 48 Fed. Reg. 14,233 to 14,241, and 30,114 (1983) [to be codified in 40 CFR 270 (Subpart B, Permit Application)] have been adopted by reference as amended by 48 Fed. Reg. 39,622 (1983); 50 Fed. Reg. 20,066, 28,751, and 28,752 (1985); and 51 Fed. Reg. 10,176, 16,458, 25,486, and 29,431 and 40,653 (1986).

(c) The following provisions for additional permitting requirements contained in 48 Fed. Reg. 14,241 to 14,243 and 30,114 (1983) to be added [to be codified in 40 CFR 270 (Subpart C, Permit Conditions)] have been adopted by reference as amended by 48 Fed. Reg. 39,622 (1983); and 50 Fed. Reg. 28,752 (1985); and 51 Fed. Reg. 25,486 and 40,653 (1986).

(d) The following provisions for additional permitting requirements contained in 48 Fed. Reg. 14,243 to 14,245 and 30,114 (1983) to be added [to be codified in 40 CFR 270 (Subpart D, Changes to permit)] have been adopted by reference as amended by 50 Fed. Reg. 28,752 (1985); and 51 Fed. Reg. 16,458 and 40,653 (1986).

.0041 REQUIREMENTS: HAZARDOUS WASTE PROGRAM - PART 271

The following provisions for the "sharing of information" [to be codified in 40 CFR 271.1 and 271.17] have been adopted by reference as amended by 50 Fed. Reg. 28,754 (1985) and 51 Fed. Reg. 10,176, 25,486, 28,685, 29,431, 33,720, 33,721, and 33,722, and 40,653 (1986).

.0042 LAND DISPOSAL RESTRICTIONS - PART 268

(a) The "General" provisions contained in 51 Fed. Reg. 40,638 to 40,641 (1986) [to be codified in 40 CFR 268.1 to 268.7 (Subpart A)] have been adopted by reference.

(b) The "Prohibitions on Land Disposal" provisions contained in 51 Fed. Reg. 40,641 to 40,642 (1986) [to be codified in 40 CFR 268.30 to 268.31 (Subpart C)] have been adopted by reference.

(c) The "Treatment Standards" provisions contained in 51 Fed. Reg. 40,642 (1986) [to be codified in 40 CFR 268.40 to 268.44 (Subpart D)] have been adopted by reference.

(d) The "Prohibitions on Storage" provisions contained in 51 Fed. Reg. 40,642 and 40,643 (1986) [to be codified in 40 CFR 268.50 (Subpart E)] have been adopted by reference.

(e) Appendices I and II contained in 51 Fed. Reg. 40,643 to 40,653 (1986) have been adopted by reference.

TITLE 13 - DEPARTMENT OF LABOR

Notice is hereby given in

accordance with G.S. 150B-12 that the Department of Labor intends to repeal regulations cited as 13 NCAC 5 .0101-.0104, .0201-.0207, and .0209-.0212, .0301-.0304, .0401-.0402, .0501-.0506, .0508-.0531.

The proposed effective date of this action is August 1, 1987.

Statutory Authority: G.S. 95-110.5, 95-111.4, 95-120.

The public hearing will be conducted at 2:00 p.m. on April 15, 1987 at Room 614, Cooper Memorial Building, 225 N. McDowell Street, Raleigh, North Carolina.

Comment Procedures: People wanting to present oral testimony at the hearing, or who want to have written testimony read at the hearing, should provide a written summary of the proposed testimony to the department by April 15, 1987. Oral presentations will be limited to 15 minutes each. Written statements not presented at the hearing will be accepted by the department until April 27, 1987. All correspondence should be directed to Sam Wagoner, N.C. Dept. of Labor, Elevator & Amusement Device Division, 214 W. Jones St., Raleigh, N.C. 27603. Interpreters for the hearing impaired will be made available if requested 24 hours in advance.

CHAPTER 5 - ELEVATOR DIVISION

SECTION .0100 - PURPOSE: DEFINITIONS

- .0101 NAME: ADDRESS (REPEALED)
- .0102 PURPOSE: RESPONSIBILITIES (REPEALED)
- .0103 ORGANIZATION (REPEALED)
- .0104 DEFINITIONS (REPEALED)

SECTION .0200 - PROCEDURES

- .0201 APPLICABILITY (REPEALED)
- .0202 RESPONSIBILITY (REPEALED)
- .0203 EXCEPTIONS AND SPECIAL DEVICES (REPEALED)
- .0204 CONSTRUCTION PERMITS (REPEALED)
- .0205 NUMBERING (REPEALED)
- .0206 DESIGN: INSTALLATION: ALTERATIONS AND

.0207 REPAIRS (REPEALED)
ACCEPTANCE
.0209 INSPECTION (REPEALED)
CERTIFICATES OF
OPERATION (REPEALED)
.0210 MAINTENANCE AND
PERIODIC INSPECTIONS
AND TESTS (REPEALED)
.0211 UNSAFE EQUIPMENT
(REPEALED)
.0212 ACCIDENTS (REPEALED)

SECTION .0300 - CODES AND
STANDARDS

.0301 ELEVATOR SAFETY
CODE (REPEALED)
.0302 WORKMAN'S HOIST
CODE (REPEALED)
.0303 STAIRWAY INCLINED
LIFT CODE (REPEALED)
.0304 VERTICAL WHEELCHAIR
LIFT CODE (REPEALED)

SECTION .0400 - AERIAL
PASSENGER TRAMWAYS

.0401 STATE TRAMWAY
CODE (REPEALED)
.0402 REGISTRATION FORM
(REPEALED)

SECTION .0500 - AMUSEMENT
DEVICES

.0501 DEFINITIONS (REPEALED)
.0502 RESPONSIBILITY FOR
COMPLIANCE (REPEALED)
.0503 DEVICES NOT IN
COMPLIANCE (REPEALED)
.0504 LOAD TESTS (REPEALED)
.0505 LOCATION NOTICES
(REPEALED)
.0506 INSPECTIONS
(REPEALED)
.0508 UNSAFE DEVICES
(REPEALED)
.0509 ACCIDENTS (REPEALED)
.0510 IDENTIFICATION AND
RATING PLATES
(REPEALED)
.0511 REBUILT AND MODIFIED
DEVICES (REPEALED)
.0512 ASSEMBLY AND
DISASSEMBLY (REPEALED)
.0513 DAILY INSPECTION
AND TEST (REPEALED)
.0514 PROHIBITED USE
(REPEALED)
.0515 CONTROL OF OPERATION
(REPEALED)
.0516 OVERLOADING AND
OVERSPEEDING
(REPEALED)
.0517 WIND AND STORM
HAZARDS (REPEALED)
.0518 LIGHTING (REPEALED)
.0519 DESIGN AND
CONSTRUCTION
REQUIREMENTS
(REPEALED)
.0520 EXITS (REPEALED)
.0521 ACCESS AND EGRESS
(REPEALED)

.0522 EMERGENCY BRAKES AND
ANTI-ROLLBACK DEVICES
(REPEALED)
.0523 SIGNAL SYSTEMS
(REPEALED)
.0524 PUBLIC PROTECTION
(REPEALED)
.0525 GUARDING OF
MACHINERY (REPEALED)
.0526 SPEED-LIMITING
DEVICES REQUIRED
(REPEALED)
.0527 PASSENGER-CARRYING
DEVICES (REPEALED)
.0528 ELECTRICAL SAFETY
REQUIREMENTS
(REPEALED)
.0529 AIR COMPRESSORS AND
EQUIPMENT (REPEALED)
.0530 FIRE PREVENTION
AND PROTECTION
(REPEALED)
.0531 CLEANLINESS (REPEALED)

Notice is hereby given in
accordance with G.S. 150B-12
that the Department of Labor
intends to adopt regulations
cited as 13 NCAC 15 .0101-.0107;
.0201-.0206; .0301-.0309; and
.0401-.0428; .0501-.0502.

The proposed effective date of
this action is August 1, 1987.

Statutory Authority: G.S.
95-110.5; 95-111.4; 95-120.

The public hearing will be
conducted at 2:00 p.m. on April
15, 1987 at Room 614, Cooper
Memorial Building, 225 N.
McDowell Street, Raleigh, North
Carolina.

Comment Procedures: People
wanting to present oral
testimony at the hearing, or who
want to have written testimony
read at the hearing, should
provide a written summary of the
proposed testimony to the
department by April 15, 1987.
Oral presentations will be
limited to 15 minutes each.
Written statements not presented
at the hearing will be accepted
by the department until April
27, 1987. All correspondence
should be directed to Sam
Wagoner, N.C. Dept. of Labor,
Elevator & Amusement Device
Division, 214 W. Jones St.,
Raleigh, N.C. 27603.
Interpreters for the hearing
impaired will be made available
if requested 24 hours in
advance.

CHAPTER 15 - ELEVATOR AND
AMUSEMENT DEVICE

SECTION .0100 - GENERAL
PROVISIONS

.0101 ELEVATOR AND AMUSEMENT
DEVICE DIVISION

The main office of the Elevator and Amusement Device Division, which administers the provisions of Article 14, Article 14A, Article 14B and Article 15 of Chapter 95 of the North Carolina General Statutes, is located in the Raleigh office of the Department of Labor at the corner of Edenton and Salisbury Streets. The mailing address and telephone number are:

Elevator and Amusement Device
Division
North Carolina Department of
Labor
4 West Edenton Street
Raleigh, North Carolina 27601
(919) 733-7394

.0102 APPLICABILITY

The requirements of this Chapter shall be applicable to the design, construction, installation, plans review, testing, inspection, certification, operation, use, maintenance, alteration, and relocation of, and investigation of accidents involving devices and equipment subject to Articles 14, 14A, 14B and 15 of the North Carolina General Statutes as hereinafter specified.

.0103 DEFINITIONS

(a) The definitions found in G.S. 95-110.3, 95-111.3 and 95-117 are applicable throughout this Chapter unless a different meaning is plainly required by the context.

(b) The following definitions also apply throughout this Chapter.

(1) The term "alteration" means any change made to an existing device or piece of equipment other than the repair or replacement of damaged, worn or other parts necessary for operation.

(2) The term "division" means the Elevator and Amusement Device Division of the North Carolina Department of Labor.

(3) The term "elevator safety code" means the edition of the American National Standard Safety Code for Elevators and Escalators, currently in effect with addenda and modifications as provided in Rule .0201 of this Chapter.

(4) The term "existing installation" means any device or equipment, the

application for the installation of which was filed with the department or the installation of which was completed before the effective date of the rules and regulations which are currently in effect.

(5) The term "new installation" means any device or equipment, the application for the installation or relocation of which is filed with the department on or after the effective date of these rules and regulations.

.0104 NOTIFICATION OF DECISION
BY OWNER OR OPERATOR

(a) Whenever the owner or operator of any device or equipment has received an order from the commissioner that the use of the device or equipment should be stopped or limited pursuant to G.S. 95-110.6, 95-111.6, or 95-112.3, he shall notify the director in writing within 15 days of receipt of such order:

(1) certifying that the device or equipment has been repaired or altered in compliance with the commissioner's specifications;

(2) indicating his intention to comply with the standards of safety for such devices or equipment with the understanding that:

(A) the use of the device or equipment will be limited as specified by the commissioner's order;

(B) the certificate of operation is suspended until the device or equipment has been repaired or altered in compliance with the commissioner's specifications; or

(C) the certificate of operation has been permanently revoked; or

(3) requesting a hearing pursuant to Chapter 150B of the General Statutes.

(b) Where the owner or operator fails to notify the director within 15 days of receipt of the order or refuses to discontinue or limit operation of the device or equipment, the director may obtain injunctive relief on behalf of the commissioner.

.0105 NOTATION OF SUSPENSION
OR REVOCATION

Upon suspension or revocation

of a certificate of operation, an authorized inspector shall affix to a prominent place on the device or equipment, a card with substantially the following language:

The certificate of operation for this device or equipment is (suspended indefinitely/permanently revoked). Further use of this device or equipment is prohibited.

This card shall be signed by the director of the Elevator and Amusement Device Division. In addition the inspector shall place seals upon the device or equipment to ensure that it is not used without the permission of the director.

.0106 OCCURRENCE REPORTING FOR TRAMWAYS

(a) The owner of any aerial passenger tramway shall within 24 hours notify the director of each and every occurrence involving such device or equipment when:

(1) The occurrence results in death or injury requiring medical treatment, other than first aid, by a physician. First aid means the one-time treatment or observation of scratches, cuts not requiring stitches, burns, splinters and contusions or a diagnostic procedures, including examination and x-rays, which does not ordinarily require medical treatment even though provided by a physician or other licensed personnel; or

(2) The occurrence results in a damage to the device indicating a substantial defect in design, mechanics, structure or equipment, affecting the future safe operation of the device. No reporting is required in the case of normal wear and tear.

(b) The director, without delay, after notification and determination that an occurrence involving injury or damage as specified in subsection (a) has occurred, shall make a complete and thorough investigation of the occurrence. The report of the investigation shall be placed on file in the office of the division and shall give in detail all facts and information available. The owner may submit for inclusion in the file results of investigations independent of the department's investigation.

(c) No person, following an occurrence as specified in subsection (a), shall operate, attempt to operate, use or move or attempt to move such device or equipment, or part thereof, without the approval of the director, unless so as to prevent injury to any person or persons.

(d) No person, following an occurrence as specified in subsection (a), shall remove or attempt to remove from the premises any damaged or undamaged part of such device or equipment or repair or attempt to repair any damaged part necessary to a complete and thorough investigation. The department must initiate its investigation within 24 hours of being notified.

.0107 EXCEPTIONS AND SPECIAL DEVICES

The director may at his discretion grant exceptions from the requirements of this Chapter or permit the use of other devices. Requests for exceptions or use of special devices shall contain specific information detailing how the exception or use of a special device will provide equivalent safety as the original design or device. Exceptions or the use of special devices shall be considered only when made by written request. All requests for exceptions or use of special devices shall be given due consideration by the director and a decision rendered within 10 days of receipt of such request whenever possible. Where the investigation of such requests makes it impossible to render a decision within the time specified, the person making the request shall be notified of the delay within 10 days.

SECTION .0200 - CODES AND STANDARDS

.0201 ELEVATOR SAFETY CODE

(a) The design, construction, installation, alteration, repair, replacement, inspection, maintenance and operation of all new installations of elevators, dumbwaiters, escalators, moving walks, inclined stairway chairlifts, and inclined and vertical wheelchair lifts shall conform to these Rules and the American National Standard Safety Code for Elevators and Escalators, A17.1-1984 with addenda A17.1a-1985, A17.1b-1985 and A17.1c-1986 which is hereby

adopted by reference subject to the modifications provided in (b) of this Rule.

(b) The provisions of the American National Standard Safety Code for Elevators and Escalators, A17.1 shall be subject to the following modifications:

(1) Rule 100.1c(1) -- Observation Elevators With Enclosed Hoistways. Change the last sentence in the second paragraph to read as follows: Hoistways of observation elevators may be enclosed with glass, provided it is laminated glass conforming to the requirements of ANSI Z97.1.

(2) Rule 101.1c(2) -- Observation Elevators Not Fully Enclosed. Change the rule to read as follows: For observation elevators which are not fully enclosed, protection at landings shall be provided as follows:

(A) An enclosure shall be provided which shall extend a minimum of 10 feet above the floor.

(B) The enclosure shall be constructed of unperforated material.

(C) Enclosures shall be located in the general line of the hoistway. Horizontal clearance shall be the same as stated in Section 108.

(3) Rule 110.2a -- For Passenger Elevators and Freight Elevators Authorized to Carry Passengers.

(A) Delete from the title the words: "and freight elevators authorized to carry passengers."

(B) Delete items (4) and (5) of the contents.

(4) Rule 111.10 -- Access to Hoistways for Emergency Purposes. In the first sentence change the word "may" to "shall."

(5) Rule 204.2d -- Side Emergency Exits. Side emergency exits shall not be permitted in elevator cars.

(6) Rule 300.3d -- Top Car Clearance. Change the rule to read as follows: The top car clearance shall be not less than the sum of the following two items:

(A) the top car runby;

(B) The largest of the following:

(i) Two feet (610 mm) above the car crosshead where a crosshead is provided;

(ii) In no case shall there be less than 2 feet clearance (610 mm) above the car crosshead when the car has reached its maximum upward movement.

(c) The rules of this Chapter shall control when any conflict between these rules and the ANSI Code exists.

(d) Copies of the American National Standard Safety Code for Elevators and Escalators are available for public inspection in the office of the division, and may be obtained from the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, New York 10017. The cost is seventy five dollars (\$75.00) per copy for non-ASME members and sixty dollars (\$60.00) for members.

.0202 EXISTING INSTALLATIONS AND EXCEPTIONS

(a) Existing Installations. Existing installations of elevators, escalators, dumbwaiters, and moving walks shall be maintained under the departmental standards (if any) in effect at the time of their installation. Existing installations shall also meet the following standards whether or not there were departmental standards in effect at the time of their installation:

(1) Electrically-powered elevator driving machines shall be equipped with a friction brake applied by a spring or springs or by gravity and released electrically.

(2) The car of every elevator suspended by wire ropes shall be provided with one or more safety devices. The safeties shall be attached to the car frame and one safety shall be located within or below the lowest members of the car frame (safety plant). All safeties shall be designed and installed in accordance with Section 205 of the Elevator Safety Code, unless otherwise approved by the director.

(3) Operating devices for electrically-powered or electrically-controlled elevators shall be of the enclosed electric type. Rope or rod operating devices activated directly by hand, or rope operating devices activated by wheels,

- levers or cranks shall not be used.
- (4) Elevator hoistways shall be enclosed throughout their height and all hoistway landing openings shall be protected with doors or gates. Hoistway enclosures shall be constructed to have a fire resistive rating of not less than one hour.
- (5) Hoistway enclosure doors or gates shall be equipped with electric interlocks.
- (6) Each elevator car shall be permanently enclosed on all sides and the top, except the sides for entrance and exit. Car side enclosures shall be of such strength and so designed and installed that when subjected to a pressure of 75 pounds applied horizontally at any point on the walls of the enclosure, the deflection will not exceed one inch.
- (7) Car top enclosures shall be so designed and installed as to be capable of sustaining a load of not less than 100 pounds at any one point.
- (8) An emergency exit with a cover shall be provided in the top of all elevator cars. The exit opening shall have an area of not less than 400 square inches and shall not measure less than 16 inches on any side. The exit shall be so located as to provide a clear unobstructed passage through it. The exit cover shall open outward and be hinged or otherwise attached to the car top and arranged to be opened from the top of the car only.
- (9) A door or gate shall be provided at each entrance to the car.
- (10) Doors shall be of the horizontally or vertically sliding type. Gates shall be of the vertically sliding or horizontally sliding collapsible type located not more than 1-3/4 inches from the car sill. Gates shall extend from a point not less than one inch above the car floor to not less than six feet above the car floor.
- (11) Vertically sliding gates when in the fully opened position shall provide an entrance of not less than six feet in height. Such gates shall be provided with pull straps to facilitate closing of the gate.
- (12) Each car door shall be equipped with a car door or gate electric contact so located as to be inaccessible from inside the car door and shall stop the car when the gate is opened a maximum of two inches.
- (b) Exceptions. Existing elevators in warehouses of not more than two floors that are not accessible to the general public are exempt from Subdivisions (4) through (12) of paragraph (a) of this Rule providing that all of the following conditions are met:
- (1) The warehouse shall be used solely for the purpose of storing materials and products.
 - (2) Hoistways shall be provided with adequate guards as approved by the director.
 - (3) All capabilities of operating the elevator from the car or platform shall be removed.
 - (4) Riders shall not be permitted to ride the car or platform.
 - (5) A sign stating "Absolutely No Riders Permitted" in letters no less than one inch high on a contrasting background shall be posted at each entrance to the elevator.
- (c) If an existing installation meets the requirements of paragraph (a) of this Rule, it shall be issued a regular certificate of operation pursuant to Rule .0306 of this Chapter. If an existing installation is maintained under the departmental standards (if any) in effect at the time of its installation and is not exposing the public to an unsafe condition likely to result in serious personal injury or property damage, but does not meet the twelve standards specifically set out in paragraph (a) of this Rule, it shall be issued a certificate of operation containing the following statement:
- "Warning: This elevator has been inspected and found to be in a reasonably safe condition; however, it is not equipped with some of the safety features now required by the Department of Labor."
- If the existing installation is not in compliance with the requirements of paragraph (a) of this Rule by January 1, 1991, the following sign in letters no less than one inch high on a

contrasting background shall be posted within and at each entrance to the elevator:

"Riders prohibited -- only a trained operator may ride this elevator."

(d) Units of existing installations which are out-of-service and not continuously maintained for a period exceeding one year shall be properly landed by complying with the following:

- (1) Land both car and counterweight (if any) at the bottom of the hoistway. Elevators of the roped type shall have their hoist ropes disconnected at both ends.
- (2) All electric power shall be removed by disconnecting and removing the power feeders.
- (3) All hoistway entrances shall be permanently secured to prevent accidental or inadvertent entry into the hoistway.

Any elevator, dumbwaiter, escalator or moving walk that has been properly landed or otherwise removed from service for a period exceeding one year shall comply with the requirements of the elevator safety code in effect at the time they are returned to service.

.0203 SAFETY STANDARD FOR MANLIFTS

(a) The design, construction, installation, alteration, repair, replacement, inspection, maintenance and operation of all manlifts shall conform to these Rules and the American National Standard Safety Standard for Manlifts, A90.1-1976 which is hereby adopted by reference.

(b) The rules of this Chapter shall control when any conflict between these rules and the ANSI Code exists.

(c) Copies of the American National Standard Safety Standard for Manlifts are available for inspection at the offices of the division and may be obtained from the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, New York 10017 at a cost of six dollars (\$6.00) per copy for non-members and four dollars and eighty cents (\$4.80) for members.

.0204 PERSONNEL HOISTS CODE

(a) The design, construction, installation, alteration, repair, replacement, inspection and operation of all personnel

hoists shall conform to these Rules and the American National Standard Safety Requirements for Personnel Hoists, A10.4-1981 which is hereby adopted by reference.

(b) The rules of this Chapter shall control when any conflict between these rules and the ANSI Code exists.

(c) Copies of the American National Standard Safety Requirements for Personnel Hoists are available for inspection at the offices of the division and may be obtained from the American National Standard Institute, Inc., 1430 Broadway, New York, New York 10018 at a cost of ten dollars (\$10.00) per copy.

.0205 TRAMWAY REQUIREMENTS

The construction, operation and maintenance of passenger tramways shall conform to the American National Standards Safety Requirements for Aerial Passenger Tramways, B77.1-1982 as supplemented by B77.1a-1986 which is hereby adopted by reference. Copies of the requirements are available for inspection at the office of the division and may be obtained from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018 at a price of twelve dollars (\$12.00) per copy.

.0206 NATIONAL ELECTRICAL CODE

(a) All devices and equipment subject to this Chapter shall be designed, constructed, installed, maintained and operated in accordance with these Rules and the requirements of the 1987 edition of the National Electrical Code, NFPA 70-1987 which is hereby adopted by reference.

(b) The rules of this Chapter shall control when any conflict between these rules and the National Electrical Code exists.

(c) Copies of the National Electrical Code are available for inspection in the offices of the division and may be obtained from the State Board of Examiners of Electrical Contractors, 1200 Front Street, Suite 105, P. O. Box 18727, Raleigh, NC 27619 at a cost of fourteen dollars (\$14.00) per copy at the office or fifteen dollars (\$15.00) per copy if mailed.

SECTION .0300 - ELEVATORS AND RELATED EQUIPMENT

.0301 SECTION APPLICABILITY

The requirements of this section are applicable to all devices and equipment within the scope of Article 14A of the General Statutes.

.0302 RESPONSIBILITY

Responsibility for the installation, alteration, operation, maintenance, and reporting of accidents for elevators, dumbwaiters, escalators, moving walks, personnel hoists, and special equipment shall be as follows:

(1) The equipment manufacturer shall be responsible for designing and manufacturing equipment in compliance with the applicable code.

(2) The person or firm installing or altering elevators, dumbwaiters, escalators, moving walks, personnel hoists, and special equipment shall be responsible for obtaining all permits and approvals. He shall be responsible for the safe operation of equipment during the installation until a certificate of operation has been issued and for conducting all tests required by these rules.

(3) The owner, his duly appointed agent, or the lessee shall be responsible for the safe operation and proper maintenance of elevators, dumbwaiters, escalators, moving walks, personnel hoists, and special equipment after the installation has been approved and a certificate has been issued. He shall be responsible for conducting all periodic or maintenance tests required by these rules.

.0303 CONSTRUCTION PERMITS

(a) Before erecting or constructing a new elevator, dumbwaiter, workman's hoist, escalator, moving walk, stairway inclined lift, or vertical wheelchair lift, or before moving such an apparatus from one location to another, or before making alterations to existing equipment, the owner or his authorized agent shall obtain a permit from the director. The owner or his authorized agent shall submit an application for a permit accompanied by duplicate plans and drawings showing the proposed construction, type of equipment and mode of operation. The application to install which consists of the original and

three copies shall include the following information:

(1) name and address of architect, owner, and installer;

(2) type and design of equipment;

(3) pertinent information as to the location of the equipment and such specifications as required by the Elevator Safety Code;

(4) a permit from the local building inspector that the planned stairway inclined lift or vertical wheelchair lift will not hinder egress or ingress from the building required by the North Carolina Building Code. If no local building inspector is available, the permit must be obtained from the engineering division of the North Carolina Department of Insurance.

(b) Upon finding that the application is in compliance with the regulations of this Chapter, the director will issue a permit, subject to final field inspection.

(c) The permit shall be posted in a conspicuous place on the job site prior to the start of any work to be done.

(d) Upon receiving information indicating violation of this Rule, the director may cause the stoppage of all work on that job until a hearing, pursuant to the provisions of the Administrative Procedure Act, N.C. General Statutes, Chapter 150B Article 3 can be held to determine the reason for the violation.

(e) The operation or use of any new, altered, or relocated equipment subject to the Elevator Safety Code other than by the installer acting under the authority of a construction permit is prohibited until such equipment has passed tests and inspections as required by Rule .0305 of this Section and a certificate to this effect has been issued in accordance with Rule .0306 of this Section.

.0304 NUMBERING

All new devices and equipment shall have a registration number assigned by the division painted on or attached in plain view to the elevator car, to the escalator or moving walk balustrade, or to the driving mechanism of all other equipment. This registration number also shall be shown on the certificate of operation. The owner or operator is responsible for having the

registration number painted on or attached to the device or equipment.

.0305 ACCEPTANCE INSPECTION

(a) Notification. The person or firm installing, moving or altering any device or equipment shall notify the director at least five days before the inspection is desired. The notification shall be in writing and shall include the following:

- (1) name and address of the contractor,
- (2) name and address of the owner,
- (3) location of the device or equipment,
- (4) date of request for inspection.

If the person or firm installing, moving or altering the device or equipment will not be ready for inspection on the date requested, he shall immediately notify the director so that an inspector will not be required to make an unnecessary trip.

(b) Inspections. The director or an inspector of the division shall inspect all new, altered or relocated devices or equipment subject to this Chapter for conformity with the requirements of these regulations. The inspection shall be made, when practicable, within two days of the date requested.

(c) Elevators, Dumbwaiters, Escalators and Moving Walks. The person or firm installing, moving or altering an elevator, dumbwaiter, escalator, moving walk, inclined stairway chairlift, or inclined or vertical wheelchair lift, shall, in the presence of the director or an inspector, subject the new, moved or altered portions of the equipment to an acceptance test as required by the Elevator Safety Code.

(d) Special Equipment. The person or firm installing, moving or altering any special equipment shall, in the presence of the director or an inspector, subject the new, moved or altered portion of the equipment to such tests as may be required by the director to insure safe operation.

(e) Violations. If, after inspecting and performing tests on the equipment, the inspector determines that the condition of the equipment is not in full compliance with the rules of this Chapter, the inspector will inform the person or firm installing, moving or altering

the device of any violations and will require compliance before a certificate for operation, as prescribed in Rule .0306 of this Section, will be issued.

.0306 CERTIFICATES OF OPERATION

(a) Issuing of Final Certificates of Operation. A certificate of operation shall be issued by the director where the inspections and tests, required by Rule .0305 of this Section, show beyond a reasonable doubt that the equipment has been designed and installed in accordance with the requirements of these rules.

(b) Framing of Certificates. The certificate furnished by the director shall be maintained in a suitable frame under transparent cover.

(c) Numbering of Certificates. The final certificate of operation shall show the registration number of the equipment for which it is issued, as required in Rule .0304 of this Section.

(d) Posting of Certificates of Operation. The required certificates shall be posted conspicuously as follows:

- (1) inside elevator cars, or
- (2) inside dumbwaiter cars, or
- (3) inside escalator and moving walk machine rooms, or
- (4) in locations designated by the division.

(e) Limited Certificate of Operation.

(1) Issuance for Elevator.

The director may allow the temporary use of any elevator for passenger or freight service during its installation or alteration under the authority of a limited certificate, issued for each class of service. Such limited certificate shall not be issued for elevators until the elevator has been tested with rated load, and the car safety, hoistway door interlocks, car door switch, and terminal stopping devices have been tested to determine the safety of the equipment for construction purposes.

(2) Issuance for Personnel

Hoist. The director may allow the temporary use of any personnel hoist under the authority of a limited certificate. Such limited certificate shall not be issued until the personnel

hoist has been tested with rated load, and the car safety, hoistway door interlocks, car door switch, and terminal stopping devices have been tested to determine the safety of the equipment.

(3) Life of Limited

Certificates of Operation. Limited certificates of operation may in the case of an elevator be issued for a period not to exceed 90 days. Limited certificates of operation for a personnel hoist may be used for a period not exceeding the length of the applicable construction project. Such certificates may be renewed at the discretion of the director upon receiving a written request showing justifiable cause for renewal. Such request must be received 15 days prior to the expiration of said limited certificate.

(4) Posting of Limited

Certificates of Operation. Limited certificates of operation shall be posted conspicuously on each elevator or personnel hoist. Such limited certificates for elevators shall bear a notice stating that the equipment has not been finally approved.

.0307 MAINTENANCE AND PERIODIC INSPECTIONS AND TESTS

(a) Inspections and Tests.

Devices and equipment shall be subject to maintenance and periodic inspections and tests in accordance with the requirements of the applicable code as adopted in Section 200. Special equipment shall be subject to periodic and to maintenance inspections and tests as may be required by the director in accordance with standard accepted safety practices to ensure safe operation.

(b) Inspections.

(1) Advance Notice.

Inspections shall be accomplished without advance notice, except where the director determines that advance notice of an inspection is necessary to complete the inspection.

(2) Inspection Report Forms.

The inspector will note findings of his inspection and tests on the appropriate inspection report form.

(c) Certificate of Operation Issuance.

(1) Closing Conference.

After the inspections and tests of the equipment prescribed in this Rule, the inspector shall, when possible, hold a closing conference with the owner or his representative.

(2) Approval.

When the inspector has determined that the equipment is in compliance with the regulations of this Chapter and all applicable law, the inspector may reissue the certificate of operation.

(3) Denial.

When the inspector has determined the equipment is not in compliance with the regulations of this Chapter and all applicable law, the inspector will provide the owner or his representative with a description of all violations and necessary repairs.

(4) Abatement.

In the event of a reissuance denial, the inspector may issue an abatement permit which will be valid for a period not exceeding 60 days.

(5) Notice.

When the equipment is brought into compliance, the owner or his representative shall notify the division in writing.

(6) Reinspection.

After a certificate reissuance denial, an inspector shall always reinspect to determine if the equipment is in compliance.

(d) Tests. Periodic tests

required by the elevator safety code will be performed in the presence of an elevator inspector whenever possible. In the absence of an inspector, a signed copy of the test report shall be sent to the director of the division without delay. The report shall be signed by the person conducting such tests.

.0308 WIRING DIAGRAMS

Wiring diagrams for elevators shall be left in the machine room in a permanently mounted receptacle and shall not be removed except by permission of the director.

.0309 LIMITATIONS ON WHEELCHAIR LIFTS

No inclined or vertical wheelchair lift shall be installed between any two floors already being served by an elevator.

SECTION .0400 - AMUSEMENT DEVICES

.0401 APPLICABILITY

The Section is applicable to all amusement devices within the scope of Article 14B of Chapter 95 of the General Statutes.

.0402 RESPONSIBILITY FOR COMPLIANCE

Every owner or operator of an amusement device shall comply with or affect compliance with all provisions of the rules of this Section, and every employer and employee shall comply with all provisions which concern or affect his conduct.

.0403 LOAD TESTS

(a) Test Required. Load tests will not be required on a regular basis. The director may, however, at his discretion require a load test to be made on devices of the following types:

- (1) devices having suspended passenger seats or spaces,
- (2) devices normally operated at speeds or with movements creating severe centrifugal forces,
- (3) devices so elevated that structural failure is likely to cause passengers to be injured by falling, or
- (4) devices which the director has ordered such a test upon finding it necessary to assure safety.

(b) Evidence of Test.

Unless a load test is made in the presence of a representative of the director, the director may accept a certified copy of such test made by a person qualified to perform such tests, showing whether the device withstood the test without failures in any material respect and setting forth such other relevant information as the director may require. Until such a statement is so filed it shall be presumed that the device has not withstood the test as required.

(c) Nature of Test. Each passenger seat or space shall be weighted with at least 150 pounds dead weight, except that in a device intended only for small children each seat or space shall be weighted with at least 75 pounds. While so loaded the device shall be so operated at maximum normal speed as to test the full operation or all control devices, speed limiting devices, brakes and other equipment provided for safety.

(d) Effect of Test. If the

device fails to withstand a load test it shall be deemed unsafe and shall not be used until and unless it has withstood a subsequent load test without failure in any material respect. If the device has withstood a load test without failure in any material respect it shall be required to be so tested again only if rebuilt or modified or if there are reasonable grounds to believe that a further test is necessary to assure safety and the director orders such test to be made.

.0404 LOCATION NOTICES

No amusement device shall be used at any time or location unless prior notice has been given to the director pursuant to G.S. 95-111.8. Notice shall include:

- (1) the name and permanent address of the operator,
- (2) the name and identification number of every amusement device, and
- (3) the intended date(s) and location(s) of use.

.0405 INSPECTIONS

An inspector shall inspect each amusement device at each location to determine if the device:

- (1) has been soundly constructed and properly erected,
- (2) has been modified to comply with any changes in safety requirements prescribed by the manufacturer,
- (3) has complied with the rules and regulations of this Section, and
- (4) has in existence a policy of insurance as required by G.S. 95-111.12.

.0406 UNSAFE DEVICES

If the inspector finds that the amusement device presents an imminent danger, he may attach to such device a notice warning all persons against the use thereof. Such notice shall not be removed until the device is made safe, and then only by a representative of the director. In the meantime, the device shall not be used.

.0407 IDENTIFICATION AND RATING PLATES

Every amusement device shall be identified by a trade or descriptive name and an identification number, and there shall be firmly attached to the device in a readily visible location a metal plate upon

which there is legibly impressed the name and number of the device, its model number if any, and the name and address of its manufacturer. Upon the same or another metal plate so attached there shall be legibly impressed the maximum safe number of passengers, and the maximum safe speed.

.0408 REBUILT AND MODIFIED DEVICES

If an amusement device which has withstood a performance test as required in Rule .0403 of this Section is thereafter materially rebuilt or so modified as to change its original action:

- (1) The device shall be re-identified by a different name or identification number or both.
- (2) The device shall be subject to all other rules of this Section as if it were a new device not previously used.

.0409 ASSEMBLY AND DISASSEMBLY

(a) Competent Supervision.

The assembly and disassembly of an amusement device shall be done by or under the immediate supervision of a person experienced and instructed in the proper performance of such work in respect to the device.

(b) Quality of Assembly.

Assembly work shall be performed in a proper and workmanlike manner. Parts shall be properly aligned, and shall not be bent, distorted, cut or otherwise injured to force a fit. Parts requiring lubrication shall be lubricated in course of assembly. Fastening and locking devices, such as bolts, cap screws, cotter pins, and lock washers, shall be installed where required for dependable operation. Nuts shall be drawn tight, cotter pins shall be spread and lock nuts firmly set. All brakes shall be adjusted for proper operation.

(c) Welding. Welding of parts upon which safe operation depends shall be done by welders qualified in accordance with the requirements of the American Welding Society.

(d) Quality and Inspection of Parts. Parts which are excessively worn or which have been materially damaged shall not be used. Close visual inspection of parts shall be made during assembly to discover such wear or damage and immediate inspection of fastening devices shall be made

after assembly to assure that they have been properly installed.

(e) Tools and Equipment.

Persons engaged in the assembly or disassembly of amusement devices shall be provided with and shall use tools of proper size and design to enable the work to be done safely. Broken, damaged and unsuitable tools shall not be used. Electrically operated tools shall be grounded during use. Ladders, scaffolds, and safety belts used in assembly or disassembly work shall be of such design, material and construction as to provide reasonable and adequate protection to the persons using them. Fiber rope used in assembly or disassembly work shall be standard quality manila or equivalent in strength. Tackle blocks shall be of a size to fit the rope. All load-carrying equipment shall be designed and constructed throughout to support the intended load.

(f) Lighting. Assembly and disassembly of amusement devices shall be done under light conditions sufficient to permit the work to be properly performed and inspected.

(g) Persons in Work Area.

A sufficient number of persons to do the work properly shall be engaged for the assembly or disassembly of amusement devices. Persons not so engaged in this work and who may create a hazard shall be prevented from entering the work area.

.0410 DAILY INSPECTION AND TEST

An amusement device shall be inspected and tested each day when it is intended to be used. The inspection and test shall be made by a person experienced and instructed in the proper assembly and operation of the device and shall be performed before the device is put into normal operation. The inspection and test shall include the operation of control devices, speed-limiting devices, brakes and other equipment provided for safety. A record of each inspection and test shall be made at once upon completion of the test on a form provided by the director and shall be kept with the device and available to the director for at least 30 days.

.0411 CONTROL OF OPERATION

Every operator shall

have knowledge of the use and function of all normal emergency operation controls and of the proper use of the device. An operator shall be in the immediate vicinity of the operating controls during operation and no other person shall be permitted to handle such controls during normal operation. This provision does not apply to amusement devices designed to be operated or controlled by a passenger.

.0412 OVERLOADING AND OVERSPEEDING

An amusement device shall not be overcrowded, or loaded in excess of its carrying capacity; nor shall it be operated at an unsafe speed or at any speed beyond that recommended by the manufacturer.

.0413 WIND AND STORM HAZARDS

An amusement device which is exposed to wind or storms shall not be operated under dangerous weather conditions except to release or discharge occupants.

.0414 LIGHTING

Amusement devices, access thereto and exits therefrom, shall, while in operation or occupied, be provided with illumination by natural or artificial means sufficient to guard against personal injuries under these circumstances.

.0415 DESIGN AND CONSTRUCTION REQUIREMENTS

(a) All structures used in connection with amusement devices shall be so designed and constructed as to carry safely all loads to which such structures may normally be subjected.

(b) All amusement devices shall be designed, constructed and installed so as to withstand any normal stresses to which they may be subjected.

(c) Before being used by the public, amusement devices shall be so placed or secured with blocking, cribbing, outriggers, guides or other means as to be stable under all operating conditions.

.0416 NUMBER OF EXITS

At least two exits remote from each other shall be provided from each floor, tier, room or balcony in structures which house amusement devices and which are not places of

public assembly. No exit shall be less than 20 inches wide.

.0417 ACCESS AND EGRESS

(a) General Requirements. Safe and adequate means of access to and egress from amusement devices shall be provided. Such means of access and egress shall have:

(1) protection from adjacent hazards or from falling by the use of rails, enclosures, barriers or similar means;

(2) secure treading and supporting surface free from debris, obstruction, projections and slipping, tripping, and other hazards;

(3) adequate clearance.

(b) Design of Stairways, Landings and Ramps. Stairways, landings and ramps shall be designed, constructed and maintained so as to sustain safely a live load of at least 90 pounds per square foot.

(c) Stairways, Ramps and Platforms. Stairways and ramps shall be at least 20 inches wide. Stair treads shall be at least nine inches deep exclusive of nosing and the height of rise shall not exceed eight inches. Between any two levels the treads shall be of uniform depth and the risers of uniform height. The slope of ramps shall not exceed one in four. The open sides of stairways, ramps and platforms shall be provided with adequate protection against falling except as the safe and normal access to the device may otherwise require.

(d) Measurement of Widths. The width of a stairway shall be taken as the length of the treads between stringers. The width of a doorway shall be taken as the width of the door.

.0418 EMERGENCY BRAKES AND ANTI-ROLLBACK DEVICES

If cars or other components of an amusement device may collide in such a way as to cause personal injuries upon failure of normal controls, emergency brakes sufficient to prevent such collisions shall be provided. On rides which make use of inclined tracks, automatic anti-rollback devices shall be installed to prevent backward movement of the passenger carrying units in case of failure of the propelling mechanism.

.0419 SIGNAL SYSTEMS

Signal systems for the

starting and stopping of amusement devices shall be provided where the operator of the device does not have a clear view of the point at which passengers are loaded or unloaded. Any code of signals adopted shall be printed and kept posted at both operator's and signalman's stations. All persons who may use these signals shall be carefully instructed in their use. Signals for the movement or operation of an amusement device shall not be given until all passengers and other persons who may be endangered are in a position of safety.

.0420 PUBLIC PROTECTION

An amusement device shall not be used or operated while any person is so located as to be endangered by it. Areas in which persons may be so endangered shall be fenced, barricaded, or otherwise guarded against public intrusion.

.0421 GUARDING OF MACHINERY

Machinery used in or with an amusement device shall be enclosed, barricaded or otherwise effectively guarded against contact. Guards removed for maintenance purposes shall be replaced before normal operation is resumed.

.0422 SPEED-LIMITING DEVICES REQUIRED

An amusement device powered so as to be capable of exceeding its maximum safe operating speed shall be provided with a maximum speed-limiting device.

.0423 PASSENGER-CARRYING DEVICES

The interior and exterior parts of all passenger-carrying amusement devices with which a passenger may come in contact shall be smooth and rounded, free from sharp, rough or splintered edges and corners, with no protruding studs, bolts, screws or other projections which might cause injury. Interior parts upon or against which a passenger may be forcibly thrown by the action of the ride shall be adequately padded. Devices which are self-powered and which are operated by a passenger shall have the driving mechanism so guarded and the guards so locked in place as to prevent passengers from gaining access to the mechanism. Such belts, bars, foot rests and other equipment as may be necessary

for safe entrance and exit and for support while the device is in operation shall be provided. Such equipment and the fastenings thereof shall be of sufficient strength to retain the passengers. The fastenings shall be of a type which cannot be inadvertently released.

.0424 ELECTRICAL SAFETY REQUIREMENTS

(a) General Requirements.

All electrical wiring, equipment and apparatus used for amusement devices or for lighting shall be properly and legally installed, operated and maintained.

(1) Branch Circuits. The circuit for each ride shall be protected by fuses or a circuit breaker at the junction box or at the generator.

(2) Disconnecting Means.

Each ride shall be provided with a main line disconnect switch or breaker. The disconnect switch or breaker shall be located at the ride. Each branch circuit on a ride shall be further provided with a disconnecting means.

(3) Conductors. Conductors

supplying current to rides shall be of moisture resistant construction and insulated for the maximum voltage supplied to the ride.

(4) Grounding. Grounding of rides shall be by means of one or more grounding electrodes driven at the generator or other service. The grounding conductor to each junction box shall be of sufficient size to carry the maximum voltage generated by the system. Grounding conductors to each ride shall not be less than #8 awg. wire size.

(b) Protection of Employees.

No employee shall be suffered or permitted to work in such proximity to any part of an electric power circuit that he may contact the same in the course of his work unless he is protected against shock by de-energizing the circuit, grounding it or guarding it, by effective insulation. If protection is supplied by de-energizing the circuit, the switch controlling the circuit shall be locked out to prevent inadvertent closing.

(c) High Voltage Lines.

The outlets of electric power lines carrying more than 120

volts shall be clearly marked to show their voltage.

(d) Transformers. All electrical transformer sub-stations shall be properly enclosed and proper warning signs posted.

(e) Outdoor Apparatus and Wiring. Electrical apparatus and wiring located outdoors shall be of such quality and so constructed or protected that exposure to weather will not interfere with its normal operation.

(f) Elevated Lines. Elevated power lines crossing access or other roads within the grounds of a carnival, fair or amusement park shall be so suspended as to provide minimum vertical clearance of 12 feet from the road surface and minimum horizontal clearance of three feet on each side of the normal passage space of vehicles.

(g) Grounding. Temporary electric installations shall be properly grounded.

(h) Exposed Conductors. Bare wires and other uninsulated current-carrying parts shall be guarded against inadvertent contact by means of proper location or by fence or other barrier.

(i) Overcurrent Protection. Conductors shall be provided with overcurrent protective devices according to load. No such device shall be installed in neutral or grounding conductors.

(j) Generator Grounding. Where electrical power is supplied for an amusement device or a temporary structure by a privately operated generating system, the generator and all equipment shall be properly grounded if the system incorporates a ground.

(k) Receptacles and Caps. All receptacles and attachment caps shall be of the ground type.

(l) Abrasion Protection. Wiring laid on surfaces traversed by vehicular or pedestrian traffic shall be adequately protected against wear and abrasion.

.0425 AIR COMPRESSORS AND EQUIPMENT

Air compressors, air compressor tanks and equipment used in connection therewith shall be constructed, equipped and maintained to insure safe operation at all times. They shall be inspected and tested at least once a year by a qualified

person and a record of each inspection shall be kept and made available to the inspector. Air compressor tanks and other air receivers used in connection with air compressors shall have the maximum allowable working pressure conspicuously marked thereon.

.0426 FIRE PREVENTION AND PROTECTION

(a) Fire Resistance of Fabrics. Fabrics constituting part of an amusement device shall be fire-resistant to meet the following standard: Two strips or test sections either of the fabric used or of other fabric identical therewith shall be tested. Each strip shall be not less than six inches wide and 12 inches long. Each strip shall be thoroughly dry and shall then be subjected to an open flame applied to the lower edge while the strip is held vertically for 12 seconds. Neither strip shall flame for more than two seconds after the test flame is removed from contact nor shall the average length of char exceed 2-1/2 inches. Such a test is not required by this Section if other evidence of the required degree of fire resistance is accepted by the commissioner as sufficient.

(b) Fire Extinguishers. Approved fire extinguishers shall be provided where necessary to secure reasonable and adequate protection from fire hazards.

(c) Flammable Waste. Flammable waste such as oily rags and other flammable materials shall be placed in a covered metal container which shall be kept in easily accessible locations. Such containers shall not be kept at or near exits.

(d) Flammable Liquids and Gases. Gasoline and other volatile liquids and flammable gases when stored shall be kept in reasonably cool and ventilated places. Such liquids shall be in approved safety cans. They shall not be stored on or near a device while it is in operation. Smoking and the carrying of lighted cigar, cigarettes or pipes is prohibited in any area where such liquids or gases are stored or are transferred from one container to another.

.0427 CLEANLINESS A suitable number of

metal containers for refuse shall be provided in and around all amusement devices. Excessive accumulations of trash or rubbish shall be promptly removed. All parts of amusement devices used by passengers or customers shall be maintained in a clean condition.

.0428 SUBSTITUTE DEVICES AND PARTS

Whenever the owner or operator of an amusement device desires to install or use a substitute part or device which is not consistent with the manufacturer's specifications, the owner or operator shall be responsible for proving, to the satisfaction of the director, that the use of the substitute part or device is as safe as the use of the manufacturer's specified part or device. The cost of all testing shall be borne by the owner or operator.

SECTION .0500 - CIVIL MONEY PENALTIES

.0501 CIVIL PENALTIES

In civil penalty cases, the director of the division shall notify the owner or operator by certified mail of the following:

- (1) the nature of the violation;
- (2) the amount of the civil penalty;
- (3) the civil penalty determination will become final, unless within 15 days after receiving notice thereof the employer charged with a violation and penalty takes exception to the determination; and
- (4) the procedure for taking exception as provided in Rule .0502 of this Section.

.0502 EXCEPTIONS TO CIVIL PENALTY

(a) The owner or operator must file a written exception to the civil penalty determination within 15 days after receipt of the notification of the civil penalty or the determination will become final.

(b) The exception to the determination must be filed with the Director, Elevator and Amusement Device Division, North Carolina Department of Labor, 4 West Edenton Street, Raleigh, North Carolina 27601.

(c) No particular form is prescribed for the exception. However, the exception should be typed or clearly written, must be directed to the issue of the

violations and the assessment, and must state the reasons why the owner or operator contends the determination is in error.

(d) If an exception is filed within 15 days of receiving notification of the civil penalty the employer is entitled to an administrative hearing pursuant to Article 3 of Chapter 150B of the North Carolina General Statutes.

TITLE 15 - DEPARTMENT OF NATURAL RESOURCES & COMMUNITY DEVELOPMENT

Notice is hereby given in accordance with G.S. 150B-12 that the Division of Community Assistance intends to adopt regulations cited as 15 NCAC 13N .0101-.0604.

The proposed effective date of this action is September 1, 1987.

Statutory Authority: G.S. 143-323; 143B-276.

The public hearing will be conducted from 7:00 - 9:00 p.m. on June 2 at Wilson Operations Center, Goldsboro Street, Wilson, N.C. On June 3 at The Railroad Depot, 200 S. Main Street, Burlington, N.C. On June 4 at Rotary Auditorium, Mitchell Community College, West Broad Street, Statesville, N.C.

Comment Procedures: Comments may be presented at the public hearings or mailed to Alice Beddingfield, Director, Division of Community Assistance, Department of Natural Resources and Community Development, P. O. Box 27687, Raleigh, N.C. 27611-7687.

CHAPTER 13 - DIVISION OF COMMUNITY ASSISTANCE

SUBCHAPTER 13N - EMERGENCY SHELTER GRANTS PROGRAM ADMINISTRATIVE RULES

SECTION .0100 - GENERAL PROVISIONS

.0101 PURPOSE AND OBJECTIVES

The purpose of the North Carolina Emergency Shelter Grants Program (hereinafter referred to as "ESGP") is to assist families and individuals who are homeless primarily due to their economic circumstances consistent with this purpose, ESGP funds will assist local governments in improving the quality and availability of

emergency shelters and services for the homeless in their community.

.0102 DEFINITIONS

- (1) "Act" means the Homeless Housing Act of 1986, P.L. 99-500, as amended.
- (2) "Applicant" means a local government which makes an application pursuant to the provisions of this Subchapter.
- (3) "Chief Elected Official" means either the elected Mayor of a City or the Chairman of a County Board of Commissioners.
- (4) "ESGP" means the state-administered Emergency Shelter Grants Program.
- (5) "Entitlement Cities" means those cities in North Carolina that received their 1986 Community Development Block Grant allocation directly from the U. S. Department of Housing and Urban Development.
- (6) "Local Government" means any unit of general city or county government in the state.
- (7) "NRCD" means the North Carolina Department of Natural Resources and Community Development.
- (8) "Recipient" means a local government that has been awarded an ESGP grant and has executed a Grant Agreement with NRCD.
- (9) "Secretary" means the Secretary of the Department of Natural Resources and Community Development or his designee.
- (10) "State" means the state of North Carolina.

.0103 WAIVERS

The secretary may waive any requirements of this Subchapter not required by law whenever he determines that undue hardship to applicants, recipients or beneficiaries will result from applying the requirements and where application of the requirements would adversely affect the purposes of the Act.

.0104 ELIGIBLE APPLICANTS

Eligible applicants are all local governments.

SECTION .0200 - ELIGIBLE AND INELIGIBLE ACTIVITIES

.0201 ELIGIBLE ACTIVITIES

This Subchapter adopts by reference as eligible activities those activities described as such in the Act and in 24 CFR

575.21(a). Copies of these sections of federal law and regulation are available for public distribution from the Division of Community Assistance of NRCD.

.0202 INELIGIBLE ACTIVITIES

This Subchapter adopts by reference as ineligible activities those activities described as such in the Act and in 24 CFR 575.21(b). Copies of these sections of federal law and regulation are available for public distribution from the Division of Community Assistance of NRCD.

SECTION .0300 - DISTRIBUTION OF FUNDS

.0301 SIZE AND USE OF GRANTS

(a) There is no minimum grant amount which applicants may request or be awarded. Grant awards shall not exceed five thousand dollars (\$5,000) in ESGP funds per applicant per year, except in the case of entitlement cities which may request and be awarded ESGP funds up to the amount shown on the "ESGP Entitlement Allocation Table" published by the Division of Community Assistance of NRCD. Copies of this table are available for public distribution from the Division of Community Assistance of NRCD.

(b) Notwithstanding the provisions of Paragraph .0301(a) above, NRCD reserves the right to decrease the requested grant amounts in the event that the total amount of funds requested exceeds the total amount of funds available. NRCD also reserves the right to increase requested grant amounts and award grants exceeding the five thousand dollars (\$5,000) limit if the total amount of funds requested is less than the total amount of funds available.

.0302 REALLOCATION

Any ESGP funds recaptured by NRCD, as provided for in Rule .0604 and Rule .0505 of this Subchapter, may be distributed to grant recipients in a manner to be prescribed by NRCD.

.0303 GENERAL APPLICATION REQUIREMENTS

(a) Local governments are required to submit applications in a manner prescribed by NRCD in order to be considered for funding. Selection of applications for funding will be based primarily on information contained in the application,

thus applications must provide sufficient information for NRCD to evaluate them. Applicants may apply for more than one grant and be awarded more than one grant, providing the total amount of grants awarded to an applicant does not exceed the maximum limits described in rule .0301 of this Section.

(b) NRCD shall designate specific dates for submission of ESGP grant applications. Grant application submission dates will be announced by NRCD at least 20 days before the date applications are due.

(c) Applications must be received by NRCD administrative offices in Raleigh before 5:00 p.m. on the submission date or, if sent by mail, must be postmarked on the submission date.

(d) The applicant shall certify to NRCD that it will comply with all applicable federal and state laws, regulations, rules and executive orders. Copies of these federal and state documents are available for public distribution from the Division of Community Assistance of NRCD.

(e) Applicants must comply with the Act, all applicable federal and state laws, regulations, rules, executive orders and guidelines issued by NRCD.

SECTION .0400 - GRANT SELECTION PROCESS

.0401 ELIGIBILITY REQUIREMENTS

(a) Applications must show that funds received under ESGP will be expended within 180 days after the date that NRCD makes the grant available to the recipient. Applications that do not meet this requirement will not be rated or funded.

(b) Applications must show that matching resources required by the federal government are available. Applications that do not meet this requirement will not be rated or funded.

.0402 EVALUATION FACTORS

(a) Applications will be selected for funding by NRCD based on overall project quality, geographic distribution of applicants, and the availability of ESGP funds.

(b) Project quality will be determined by NRCD based on the following factors:

(1) Benefits of proposed activities to homeless persons, including type and

number of both current and new beneficiaries;

(2) Feasibility of the proposed activities, including:

- (A) Local resources for sheltering the homeless;
- (B) Local commitment to continue the program to be assisted with ESGP Funds.

SECTION .0500 - GRANT ADMINISTRATION

.0501 GRANT AGREEMENT

(a) Upon approval of the application by NRCD, a written grant agreement will be executed between the recipient and NRCD. The rules in this Subchapter, subsequent guidelines prepared by NRCD, the approved application, and any subsequent amendments to the approved application shall become a part of the grant agreement.

(b) The grant agreement in its original form and all modifications thereto shall be kept on file in the office of the recipient in accordance with rule .0504 of this Section.

(c) ESGP Program amendments. Recipients shall request prior NRCD approval for all amendments to the grant agreement when:

(1) The recipient proposes to change the approved project budget amount for any of the three categories of eligible activities as described in 24 CFR 575.21(a).

(2) The recipient proposes to distribute all or part of their grant(s) to programs or agencies other than originally approved in the application.

(d) NRCD reserves the right to disallow any proposed amendment to the grant agreements.

.0502 METHOD OF ADMINISTRATION

(a) Recipients may delegate to statutorily authorized subrecipients the responsibility of undertaking or carrying out ESGP activities. All entities so designated under this Subparagraph by recipients to undertake or carry out ESGP activities pursuant to this Subchapter shall be considered subrecipients.

(b) Recipients may contract with any person, association, or corporation in undertaking specified ESGP activities.

(c) NRCD shall make payments of ESGP funds to recipients on a cost-reimbursement or cost-incurred basis. A recipient may request up to

three (3) payments of ESGP grant funds per grant in the manner prescribed by NRCD.

.0503 PROPERTY MANAGEMENT STANDARDS

(a) Property acquired with ESGP grant funds shall be used to provide benefits to the homeless.

(b) Recipients and subrecipients are encouraged to use proceeds from the disposition of property acquired with ESGP funds in a manner which provides benefit to the homeless in their community.

.0504 RECORDKEEPING

(a) NRCD, or any of NRCD's duly authorized representatives, shall have access to all books, accounts, records, reports, files, and other papers or property of recipients or their subrecipients and contractors pertaining to funds provided under this Subchapter for the purpose of making surveys, audits, examinations, excerpts and transcripts.

(b) Financial records, supporting documents and all other reports and records required under this Subchapter, and all other records pertinent to the ESGP Program shall be retained by the recipient for a period of at least one year from the date of the closeout of the program, or longer in the following circumstances:

(1) Records documenting compliance with 24 CFR 575.53 shall be kept for the period of compliance;

(2) Records shall be retained until all litigations, claims, or audit findings involving the records have been resolved.

(c) All records shall be sufficient to determine compliance with the requirements and primary objectives of the ESGP Program and all other applicable laws and regulations. All accounting records shall be supported by source documentation and show compliance with Rule .0503 of this Section.

.0505 GRANT CLOSEOUTS

ESGP grants will be closed out by NRCD in the following circumstances:

(1) NRCD will initiate closeout procedures after NRCD determines, in consultation with the recipient, that there are no impediments to closeout and

that all ESGP funds have been expended.

(2) Termination of grant for mutual convenience. Grant assistance provided under this Subchapter may be cancelled, in whole or in part, by NRCD or the recipient, prior to the completion of the approved ESGP Program, when both parties agree that the continuation of the program no longer is feasible or would not produce beneficial results commensurate with the further expenditure of funds.

(3) Termination for cause.

The secretary may terminate the recipient's entire grant, or the remaining balance thereof, in accordance with Rule .0604 of this Subchapter.

SECTION .0600 - COMPLIANCE AND REPORTING REQUIREMENTS

.0601 COMPLIANCE

Recipients shall have responsibility for ensuring that ESGP funds are expended as stated in their grant agreement and in conformance with all applicable federal and state laws, regulations, and guidelines, regardless of whether activities are carried out by the recipient or a subrecipient. NRCD may prescribe procedures for ensuring compliance with the provisions of this Rule.

.0602 REPORTING

(a) NRCD may require recipients to provide an interim performance report in a form prescribed by NRCD. Recipients will be notified at least 20 days before the report will be due.

(b) The recipient shall submit an Annual Performance Report to NRCD no later than 210 days after the date that NRCD makes the grant available to the recipient. The annual performance report shall be in a form prescribed by NRCD.

.0603 MONITORING BY NRCD

(a) The secretary may evaluate activities conducted under this Subchapter and their effectiveness in meeting the objectives of the ESGP program.

(b) The secretary may conduct such evaluations using NRCD personnel, or by contract or other arrangement with public or private agencies.

.0604 REMEDIES

When the secretary determines on the basis of a review of a recipient's performance that the objectives of an ESGP program described in the grant agreement have not been met, NRCD may take one or more of the following actions as appropriate:

- (1) Issue a warning letter that further failure to comply with such requirements will result in a more serious sanction;
- (2) condition a future grant;

- (3) Direct the recipient to stop the incurring of costs with grant amounts;
- (4) Require that some or all of the grant amounts be remitted to NRCD;
- (5) Reduce the level of funds the recipient would otherwise be entitled to receive; or
- (6) Elect not to provide future grant funds to the recipient until appropriate actions are taken to ensure compliance.

FINAL RULES

When the text of any adopted rule differs from the text of that rule as proposed, upon request from the adopting agency, the text of the adopted rule will be published in this section.

When the text of any adopted rule is identical to the text of that as proposed, adoption of the rule will be noted in the "List of Rules Affected" and the text of the adopted rule will not be republished.

Adopted rules filed by the Departments of Correction, Revenue and Transportation are published in this section. These departments are not subject to the provisions of G.S. 150B, Article 2 requiring publication of proposed rules.

TITLE 5 - DEPARTMENT OF CORRECTION

CHAPTER 2 - DIVISION OF PRISONS

SUBCHAPTER 2F - CUSTODY AND SECURITY

SECTION .2300 - INMATE MATERNITY LEAVE PROGRAM

.2301 PURPOSE

The Inmate Maternity Leave Program is designed to provide temporary in-state leave privileges for selected minimum custody inmates who give birth to children while committed to the custody of the North Carolina Department of Correction. Inmates will be selected for this program based on the potential benefits to newborn children of post-delivery bonding.

Inmate Maternity Leave will be subject to the following restrictions:

- (1) An inmate may take Inmate Maternity Leave only in the home of one of the inmate's legal relatives. The legal relative in question must also be the caretaker approved by the local Department of Social Services to assume responsibility for the child of the inmate when the mother returns to prison.
- (2) Inmates who have rejected or who have been denied postponement of sentencing on grounds of pregnancy under provisions of G.S. 15A-1353(a) are not eligible.

(3) Inmate Maternity Leave will begin no sooner than and immediately after discharge of mother and infant from medical facilities at which the birth has occurred. Leave may be granted prior to delivery only in extraordinary circumstances. For example, leave may be granted in cases where inmates have arranged for maternity care at their own expense or at the expense of agencies other than the Department of Correction. Such arrangements must be made in accordance with Division of Prisons Health Care Policy 710.

(4) Inmate Maternity Leave may be awarded for as little as one day but under no circumstances will it exceed a total of 60 days.

History Note: Statutory
Authority G.S. 148-4;
148-11;
Eff. April 1, 1987.

.2302 PROCEDURE

(a) Requests to Participate.

(1) Application. Any pregnant inmate, regardless of where incarcerated, who desires to participate in the Inmate Maternity Leave Program must make a written application to participate to the Superintendent of the North Carolina Correctional Center for Women. The request must be made at least six weeks prior to the anticipated date of birth to allow time for processing. The Superintendent of the North Carolina Correctional Center for Women shall provide a form entitled "Application for Inmate Maternity Leave" to every pregnant inmate who, having been informed about the program, desires to apply.

(2) Case Reviews. The Superintendent of the North Carolina Correctional Center for Women will ensure that a documented case review is made for each inmate who applies for participation in the Inmate Maternity Leave Program.

(3) Grounds for Denial. The Superintendent of the North Carolina Correctional Center for Women may deny or withdraw approval for participation in the program on the basis of any of the following conditions:

(A) Sentence Length.

- A total sentence length upon commitment which is greater than 5 years;
- (B) Pending Criminal Charges. Pending criminal charges in any jurisdiction;
- (C) Recidivism. Evidence of one or more previous commitments within the prison system of any jurisdiction;
- (D) Violation of Probation. A current commitment as a result of probation violation(s);
- (E) Institutional Record. An institutional record of two or more major offenses within the six months prior to anticipated date of delivery;
- (F) Record of Violence. A record of violent or aggressive behavior, child abuse, or child neglect;
- (G) Record of Drug Abuse. A record of serious drug usage, any drug trafficking or sales, or other serious substance abuse;
- (H) Rejection of Sentence Postponement. Evidence that the inmate has rejected postponement of service of sentence on grounds of pregnancy under G.S. 15A-1353(a);
- (I) Denial of Sentence Postponement. Evidence that the inmate has been considered for and denied postponement of service of sentence on grounds of pregnancy under G.S. 15A-1353(a). Any inmate who is pregnant at the time she begins serving her sentence shall be presumed to have been considered for and denied postponement of service of sentence in the absence of information from the court of record that she has not been considered for and denied postponement of service of sentence on grounds of pregnancy;
- (J) Objection by the Sentencing Court. Evidence that officials of the sentencing court object to maternity leave for the inmate;
- (K) Denial or Revocation of Certification by Social Services. Evidence that the local Department of Social Services refuses to certify the home of the caretaker for the mother and child;
- (L) Psychiatric Recommendations. Negative psychiatric and psychological assessments and evaluations; and
- (M) Threats to Public Safety and the General Welfare. Other specific conditions which threaten public safety or the health and general welfare of child and/or mother.
- (4) Inmate Maternity Leave Program Plan. For any inmate who qualifies on the basis of conditions specified above, the Superintendent of the North Carolina Correctional Center for Women will prepare a "Maternity Leave Program Plan". This shall include, in the order given, the following completed forms and documents:
- (A) Inmate Maternity Leave Checklist. This form documents that all eligibility requirements have been satisfied and that all documents of the plan are in order;
- (B) Inmate Maternity Leave Form. This form from the sentencing court establishes whether the inmate did or did not reject postponement or have postponement of service of sentence denied under provisions of G.S. 15A-1353(a);
- (C) Local Department of Social Services Home Certification for Newborn Children. This form documents that the proposed home is acceptable for the child in question;
- (D) Relative Caretaker Agreement. This establishes that the adult relative(s), who will be responsible for the inmate and child, agree(s) to accept this responsibility;
- (E) Psychological Assessment;
- (F) Emergency Termination Plan in DC 142 and in The Relative Caretaker Agreement (above);
- (G) Local Law Enforcement Notification Form;
- (H) Response from the Prosecuting District Attorney;
- (I) Temporary Leave Form (DC-326);
- (J) Extension of Limits Form (DC 142). This will be modified as appropriate

- in individual cases to accommodate inmate maternity leave;
- (K) Local Monitoring Plan;
 - (L) Inmate Maternity Leave Agreement. This agreement establishes that the inmate agrees to all specific conditions established for her own inmate maternity leave;
 - (M) Medical Clearance;
 - (N) Institutional Classification Form (DC 121).
- (b) Approval. The Superintendent of the North Carolina Correctional Center for Women shall recommend approval or disapproval of each Application for Inmate Maternity Leave. The Secretary of Correction or designee shall be the approving authority for the Inmate Maternity Leave Program.
- (c) Monitoring.
- (1) The responsibility for monitoring inmates on maternity leave is assigned to the Superintendent of the North Carolina Correctional Center for Women and local parole or probation officers.
 - (2) The Superintendent shall notify the Director of the Division of Adult Probation and Parole or designee whenever an inmate is placed on inmate maternity leave. The director shall ensure that the inmate is monitored at home on a face-to-face basis during an unannounced visit at least once every week for the duration of the inmate's maternity leave.
 - (3) Local Department of Social Services monitoring reports may also be used in determining if the inmate on leave is fulfilling the terms of the Inmate Maternity Leave Plan.
 - (4) Additionally, reports from the adult relative(s) who are signatories to the Relative Caretaker Agreement may be used to assist Department of Correction officials in determining whenever leave compliance is sufficiently changed to warrant leave termination.
- (d) Modifications. When changes in the terms of an Inmate Maternity Leave Plan appear to be advisable or required, these changes shall be proposed, documented, and approved in the same manner required for initial approval of the plan.
- (e) Gain Time. Inmates on inmate maternity leave shall not receive gain time for time spent away from the North Carolina Correctional Center for Women.
- (f) Custody Level. Inmates on inmate maternity leave will be in Minimum Custody Level III for the duration of their leaves. Upon termination of inmate maternity leave, the custody level and privileges of inmates will be reviewed.
- History Note: Statutory Authority G.S. 148-4; 148-11; Eff. April 1, 1987.
- .2303 TERMINATION OF LEAVE.
- (a) Emergency Termination. If rule violations or other emergency conditions occur, the Superintendent of the North Carolina Correctional Center for Women may terminate Inmate Maternity Leave prematurely. Inmate Maternity Leave may be terminated prematurely based upon any of the following:
- (1) Use of alcohol, of drugs or of other illegal substances, or abuse of prescription medications;
 - (2) Association with known criminals;
 - (3) Acceptance of gainful employment;
 - (4) Incurrence of indebtedness without agency approval;
 - (5) Violation of state or local laws;
 - (6) Travel, without approval, beyond the agreed limits in the Maternity Leave Plan, specifically the DC-142ML and Inmate Maternity Leave Agreement Forms;
 - (7) Engaging in activities prohibited by specific leave conditions, Department of Correction policy, or laws imposed upon inmates or persons with restrictive citizenship; and
 - (8) Contact with the victims of the crimes for which the inmate is serving time without specific authorization.
- (b) Disciplinary Action. Any inmate who violates conditions specified in the Extension of Limits Form or who fails to report to the Correctional Center for Women at the end of the leave period or who fails to report to appropriate authorities in cases of emergencies shall be subject to disciplinary action for

violation of offense number(s) 24, 25, and or any other applicable offense(s).

(c) Routine Termination. Any inmate awarded inmate maternity leave must report to the Superintendent of the North Carolina Correctional Center for Women by the date and time specified on the Temporary Leave Form included in her Inmate Maternity Leave Program Plan.

History Note: Statutory
Authority G.S. 148-4;
148-11;
Eff. April 1, 1987.

.2304 DESIGN AND EVALUATION

(a) The Superintendent of the North Carolina Correctional Center for Women shall be responsible for design and evaluation of training and treatment components of the Inmate Maternity Leave Program. The superintendent shall prepare an annual evaluation report for the Director of Prisons which shall be due one month after the end of the calendar year.

(b) This report shall include, but need not be limited to, the following statistical information:

- (1) Number of pregnant inmates admitted to the North Carolina Department of Correction during the year by length of sentence, by month and day of pregnancy upon commission of the crime

for which sentenced, by month and day of pregnancy when arrested, by month and day of pregnancy upon sentencing and commitment, by county, and by area of origin;

- (2) Number and percentage of pregnant inmates admitted during the year who applied for maternity leave;
- (3) Number of inmates, of those who applied for inmate maternity leave, who were awarded inmate maternity leave by county and area of origin;
- (4) Of those inmates who were denied inmate maternity leave, the number and percentage who were ineligible on the basis of each of the Grounds for Denial listed herein or for other reasons;
- (5) Number and percentage of inmates whose inmate maternity leaves were terminated prematurely and reasons for these terminations;
- (6) Number and percentage of pregnant inmates who were awarded inmate maternity leave, prior to delivery, on the basis of Division of Prisons Health Care Policy 710.

History Note: Statutory
Authority G.S. 148-4;
148-11;
Eff. April 1, 1987.

NORTH CAROLINA ADMINISTRATIVE CODE

LIST OF RULES AFFECTED

EDITION XI, NO. 5

EFFECTIVE: March 1, 1987

AGENCY	ACTION TAKEN
<u>CORRECTION</u>	
5 NCAC 2F .2201-.2205	Adopted
<u>CULTURAL RESOURCES</u>	
7 NCAC 4R .0401-.0410	Repealed
11 .0501-.0504	Adopted
<u>GOVERNOR'S OFFICE</u>	
9 NCAC 2	Executive Order Number 31
<u>HUMAN RESOURCES</u>	
10 NCAC 3N .0101-.0106	Repealed
	Repealed
	Repealed
	Repealed
	Repealed
	Repealed
4B .0101	Amended
	Repealed
	Amended
	Repealed
	Amended
	Repealed
	Repealed
7A .0503	Temp. Adopted
	Expires 5-31-87
	Adopted
26H .0507	Adopted
<u>INSURANCE</u>	
11 NCAC 10 .0304	Temp. Amended
	Expires 5-31-87
	Amended
	Temp Adopted
	Expires 5-31-87
	Adopted
<u>LABOR</u>	
13 NCAC 5 .0104	Amended
	Adopted
	Amended
7C .0102	Amended
<u>NATURAL RESOURCES AND COMMUNITY DEVELOPMENT</u>	
15 NCAC 3A .0003	Repealed
	Amended
	Adopted
	Amended
	Amended
	Amended
	Amended
	Amended
	Amended
	Amended
<u>REVENUE</u>	
17 NCAC 6B .3802	Amended
	Amended
	Amended
	Adopted
	Amended
	Amended
	Amended
	Amended
	Amended
	Amended
	Amended
	Amended

	.0303	Amended
	.0305	Repealed
	.0307	Repealed
	.0401	Amended
	.0403-.0404	Amended
	.0501-.0505	Amended
	.0507-.0510	Amended
	.0511	Repealed
	.0513-.0514	Amended
	.0515	Repealed
9H	.0102-.0103	Amended
	.0201-.0203	Amended
	.0204-.0205	Repealed
	.0206	Amended
	.0301	Amended
	.0303-.0304	Amended
	.0402-.0403	Amended
	.0404	Repealed
	.0407	Amended
	.0408	Adopted
9I	.0101	Repealed
	.0102-.0103	Amended
	.0202	Amended
	.0304	Amended
	.0401-.0403	Amended
	.0501-.0504	Amended
	.0506	Adopted
9J	.0201	Amended
	.0203-.0204	Amended

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21	NCAC	8G	.0107	Repealed
			.0201	Repealed
			.0203-.0204	Repealed
			.0301-.0303	Repealed
			.0305	Repealed
			.0308-.0309	Repealed
			.0504-.0506	Repealed
		8C	.0101-.0102	Repealed
			.0201-.0205	Repealed
			.0301	Repealed
			.0303	Repealed
			.0402	Repealed
			.0501-.0502	Repealed
			.0504	Repealed
			.0601	Repealed
			.0701	Repealed
			.0801-.0804	Repealed
			.0901-.0902	Repealed
			.0904	Repealed
			.0909	Repealed
			.0911	Repealed
		8D	.0101-.0102	Repealed
			.0104-.0105	Repealed
			.0201	Repealed
			.0205	Repealed
			.0301-.0302	Repealed
			.0304-.0305	Repealed
			.0401-.0402	Repealed
			.0501-.0502	Repealed
		8E	.0101-.0102	Repealed
			.0103	Amended
		8F	.0108	Repealed
		8G	.0111	Repealed
			.0307	Repealed
		8K	.0101	Repealed
			.0103	Repealed
			.0106	Repealed
			.0202	Repealed
			.0204-.0208	Repealed

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21	NCAC	32B	.0101	Amended
			.0201	Amended

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21 NCAC 46 .1503
.2001
.2401-.2403

Amended
Amended
Adopted

STATE PERSONNEL

25 NCAC 1C .0413
1D .0504
.0507-.0508
.0510-.0517

Adopted
Amended
Repealed
Adopted

OFFICE OF ADMINISTRATIVE HEARINGS

26 NCAC 3 .0014
.0021

Amended
Amended

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*21	Occupational Licensing Boards
22	Administrative Procedures
23	Community Colleges, Department of
24	Independent Agencies
25	Personnel, Department of State
26	Office of Administrative Hearings

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4	Auctioneers, Commission for
6	Barber Examiners, Board of
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10	Chiropractic Examiners, Board of
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